

EXPLANATORY STATEMENT

Issued by the authority of the Minister of Education

Higher Education Support Act 2003

Higher Education Support (Other Grants) Amendment (Microcredentials Pilot) Guidelines 2022

AUTHORITY

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make Other Grants Guidelines to, amongst other things, provide for matters necessary or convenient to be provided in order to carry out or give effect to Part 2-3 of the Act in relation to grants payable under that Part.

Section 41-15 of the Act provides that the Other Grants Guidelines may specify one or more programs under which grants for particular purposes specified in the table in subsection 41-10(1) are to be paid.

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. The amendments to the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument) made by this instrument rely on this provision.

PURPOSE AND OPERATION

The *Higher Education Support (Other Grants) Amendment (Microcredentials Pilot) Guidelines 2022* (the Amendment Instrument) amends the Principal Instrument to establish the Microcredentials Pilot program (the program).

The Amendment Instrument sets out the program objectives for the program, the extra conditions of eligibility, conditions that apply to grants under the program and the method by which grant amounts under the program will be determined.

Grants under the program will be made for the purposes of supporting open access to higher education across Australia and encouraging higher education providers to engage with industry.

The program will provide funding to higher education providers to develop and deliver microcredential courses for the domestic market, and to promote a systemic approach to supporting them.

The purpose of the program is to examine newer, shorter forms of industry focussed learning aimed at supporting people to upskill and reskill in areas of national priority such as health, teaching, IT and engineering.

The Australian Government is committed to supporting Australians through providing newer, shorter forms of learning which encourage providers to work more closely with industry. This creates more opportunities for Australians to gain work-relevant skills quickly, secure work in new industries or meet changing skill needs.

Microcredential courses give students an opportunity to be more selective and targeted about acquiring new skills, providing flexibility to students already in the workforce and those managing caring and family responsibilities who are often time-poor and will not otherwise be able to commit to a full qualification. Microcredential courses address the cost and time barriers for students, ensuring that all Australians are able to continue accessing high-quality higher education throughout their lives.

Shorter forms of training are becoming increasingly important to equip learners with skills to work in specific fields. Microcredential courses can be more specialised and focused than a traditional longer qualification, allowing providers to respond to the labour market and employer skill needs.

The program aligns with the Government's objectives for the Australian Universities Accord. This includes improving accessibility and affordability of higher education and, ensuring the higher education sector collaborates with industry to meet current and future workforce skill needs.

The development of this program is in response to the *University-Industry Collaboration in Teaching and Learning Review* (the Review), released on 7 December 2021. The Review recommended that higher education providers and industry build a strong culture of partnership in the development and delivery of industry-focused microcredentials, supported by a government investment fund which targets areas of national priority.

REGULATORY IMPACT

The Office of Best Practice Regulation (OBPR) has been consulted and advised that the program has a minor regulatory impact and that a Regulation Impact Statement is not required for this instrument (OBPR ID: 44281).

COMMENCEMENT

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

CONSULTATION

The Australian Government Department of Education engaged with key stakeholders and peak bodies from the higher education sector, industry and government as a part of the consultation process.

These stakeholders were formally invited to provide comments on the Microcredentials Pilot and the Amendment Instrument.

Stakeholders were supportive of the program but sought clarity and provided feedback on issues concerning industry engagement, the length of the microcredential courses, alignment with the National Microcredentials Framework, the development of microcredentials in national priority areas, and licencing and reporting requirements. The National Microcredentials Framework was announced on 22 March 2022 and provides guidance to the higher education sector, vocational education sector and industry on what constitutes a microcredential in Australia. It states unifying principles for microcredentials, that they are outcomes-based; responsive to industry-need; tailored to support lifelong learning; and transparent and accessible.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Higher Education Support (Other Grants) Amendment (Microcredentials Pilot) Guidelines 2022

The *Higher Education Support (Other Grants) Amendment (Microcredentials Pilot) Guidelines 2022* (the Amendment Instrument) 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 Amendment Instrument amends the *Higher Education Support (Other Grants) Guidelines 2022* (the *Principal Instrument*) to establish the Microcredentials Pilot program (the program).

The Amendment Instrument sets out the program objectives for the program, the extra conditions of eligibility, conditions that apply to grants under the program and the method by which grant amounts under the program will be determined.

Grants under the program will be made for the purposes of supporting open access to higher education across Australia and encouraging higher education providers to engage with industry.

The program will provide funding to higher education providers to develop and deliver microcredential courses for the domestic market, and to promote a systemic approach to supporting them.

The purpose of the program is to examine newer, shorter forms of industry focussed learning aimed at supporting people to upskill and reskill in areas of national priority such as health, teaching, IT and engineering.

The Australian Government is committed to supporting Australians through providing newer, shorter forms of learning which encourage providers to work more closely with industry. This creates more opportunities for Australians to gain work-relevant skills quickly, secure work in new industries or meet changing skill needs.

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The program aligns with the Government's objectives for the Australian Universities Accord. This includes improving accessibility and affordability of higher education and, ensuring the higher education sector collaborates with industry to meet current and future workforce skill needs.

The development of this program is in response to the *University-Industry Collaboration in Teaching and Learning Review* (the Review), released on 7 December 2021. The Review recommended that higher education providers and industry build a strong culture of partnership in the development and delivery of industry-focused microcredentials, supported by a government investment fund which targets areas of national priority.

Human rights implications

The Amendment Instrument engages the right to education in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Right to education

Article 13(2)(c) of the ICESCR provides that 'higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education'.

The Amendment Instrument will directly contribute to this requirement by assisting more people to undertake higher education. In particular, one of the stated objectives of the program is to support open access to higher education by providing grants to higher education providers to design microcredential courses that support lifelong learning, and encourage higher education providers to offer shorter and more accessible forms of learning.

As such, grants under the Microcredential Pilot program will promote the right to education by supporting wider access to higher education through the design and delivery of shorter and more accessible forms of learning.

Conclusion

The Instrument is compatible with human rights because it supports the right to education.

Minister for Education, The Hon Jason Clare MP

HIGHER EDUCATION SUPPORT (OTHER GRANTS) AMENDMENT (MICROCREDENTIALS PILOT) GUIDELINES 2022

EXPLANATION OF PROVISIONS

Section 1: Name

1. This provision specifies the name of the instrument as the *Higher Education Support (Other Grants) Amendment (Microcredentials Pilot) Guidelines 2022*.

Section 2: Commencement

2. This provision provides that the instrument commences the day after the instrument is registered on the Federal Register of Legislation.

Section 3: Authority

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

Section 4: Schedules

4. This is a technical provision that explains that the instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

Schedule 1 – Amendments

Higher Education Support (Other Grants) Guidelines 2022

Item 1

5. Item 1 inserts a new definition in section 4 of the *Higher Education Support (Other Grants) Guidelines 2022* (Principal Instrument), which is to define 'digital badge' to mean an icon that is linked to an individual and recognises their completion of a microcredential course (see new paragraph 76(8)(c) of the instrument).

Item 2

6. Item 2 inserts a new Part in the Principal Instrument to specify the Microcredential Pilot as a program under which grants may be made in accordance with subsection 41-15(1) of the Act.

7. New subsection 73(1) sets out the particular purposes specified in the table in subsection 41-10(1) of the Act for which grants under the program are to be paid, which are for activities that support open access to higher education across Australia (see subitem 11(c)), and to encourage higher education providers to engage with industry (see item 13).
8. New subsection 73(2) sets out the program objectives of the Microcredential Pilot program.
9. New subsection 74(1) provides that grants under the Microcredentials Pilot program may be provided across three stages: 'Stage 1' (grants for the design of microcredential courses), 'Stage 2' (grants for the delivery of microcredential courses designed by Table A providers in Stage 1) and 'Stage 3' (grants for the delivery of microcredential courses designed by a higher education provider independent of the program).
10. New subsections 74(2) to (5) set out the extra conditions of eligibility for grants in Stage 1, Stage 2 and Stage 3 and specifies that higher education providers (which are bodies corporate approved under Part 2-1 of the Act) are eligible for Stage 2 grants and Stage 3 grants from 1 July 2023.
11. New section 75 provides that grants under the Microcredentials Pilot program must be approved by the Minister in writing and made in respect of a project.
12. New section 76 sets out the conditions that apply to grants under the Microcredentials Pilot program.
13. New subsections 76(1) to (5) set out the conditions that apply to Stage 1 grants. Subsection (1) provides that the grant to a higher education provider in Stage 1 must be used to achieve the program objectives. Subsection (2) provides that the higher education provider in receipt of a grant under Stage 1 for the design of a microcredential course, must grant to other higher education providers applying for a grant under Stage 2, a permanent, irrevocable, royalty-free, world-wide, non-exclusive license to use any course material that would be required for delivering that microcredential course. Subsection (3) provides that the higher education provider in receipt of the grant must make available to other higher education providers applying for a grant under Stage 2, the course material required for delivering that microcredential course. Subsection (4) provides that the higher education provider in receipt of the Stage 1 grant must also demonstrate to the Commonwealth that their designed microcredential course has industry endorsement by providing a signed letter from an industry partner or a professional body endorsing the microcredential course and acknowledging that the microcredential course addresses a skill shortage in industry. Subsection (5) provides that it is a condition that the higher education provider in receipt of a Stage 1 grant, must apply for a Stage 2 grant for the delivery of their microcredential course designed in Stage 1, and if successful, the higher education provider must deliver that microcredential course in Stage 2.
14. New subsections 76(6) and (7) provide that Stage 2 and Stage 3 grants must be used to achieve the program objectives as set out in subparagraphs 73(2)(a)(ii), (iii) and (iv) of the Instrument.

15. New subsection 76(8) provides that microcredential courses designed and delivered under the program must have the value of 0.25 to 0.49 EFTSL, be assessable for credit towards an Australian Qualifications Framework qualification, lead to the award of a digital badge upon successful completion, have a census date, and be in a national priority field of education outlined in the conditions of grant determined by the Minister in writing under subsection 41-25(2) of the Act.
16. Subsection 76(9) provides that higher education providers must not charge a student more than the amount specified in the third column of the table in subsection (8) for a microcredential course that is in the part of the funding cluster specified in the second column of the table.
17. Section 77 sets out the method by which grant amounts under the program are to be determined. Subsection (1) provides that, for Stage 1 grants, grant amounts will be determined by the Minister in writing under paragraph 41-30(b) of the Act. Subsection (2) provides that a Stage 2 or Stage 3 grant to a higher education provider is calculated by multiplying the Commonwealth payment set out in the third column of the table in subsection (2) by the EFTSL value of the microcredential course by the total number of students enrolled in the microcredential course immediately after the census date.