

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Education

### ***Higher Education Support Act 2003***

#### ***Other Grants (Research) Amendment (National Industry PhD Program) 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. The *Other Grants (Research) Amendment (National Industry PhD Program) Guidelines 2022* (the Amendment Instrument) specifies a program for the purpose of supporting the training of research students, under item 8 of this table.

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 *Other Grants Guidelines (Research) 2017* (the Principal Instrument) made by the Amendment Instrument rely on this provision.

#### **PURPOSE AND OPERATION**

The Amendment Instrument amends the Principal Instrument to establish the National Industry PhD 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 purpose of supporting the training of research students. The program will provide funding to higher education providers to develop PhD Candidates into researchers who can work in both industry and academic settings, support high calibre industry professionals to become industry researchers with the potential to work in academic settings, contribute to industry-focused innovation and development, strengthen collaboration between Australian companies and universities, and support industry-focused PhD research projects.

The Government's investment of \$36.1 million will establish the program to build a bedrock of highly skilled PhD Candidates, to support research innovation and university-industry collaboration to add over 1,300 Industry PhDs over 10 years. It will have two distinct streams: Industry Linked PhDs and Industry Researcher PhDs. The two streams embed researchers in academic and industry settings, enhancing research translation, commercialisation and skills, and building research careers in industry. The program will allow PhD Candidates to gain knowledge on how research is undertaken in an industry setting and vice versa, ensuring that the needs of industry clients are better understood and provided for in the university research sector.

The Industry Linked PhD stream will help create a synergy between industry and research, allowing industry to leverage the academic expertise of participants. PhD Candidates will be given space and tools to demonstrate the value of their research to industry partners. Where core research is more theoretical, this program will allow PhD Candidates to demonstrate research applicability to tangible, real-world challenges with industry for an outcome that has commercial and financial benefits.

The Industry Researcher PhD stream will support industry researchers employed at Research and Development active private sector companies. The program will provide PhD Candidates with industry experience to concurrently complete a university PhD while maintaining employment in a relevant industry.

## **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: 44244).

## **COMMENCEMENT**

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

## **CONSULTATION**

As part of the consultation effort to support the establishment of the program, an advisory panel, consisting of six members from across the industry and higher education sectors, was established in March 2022 to provide strategic advice on the development, design, and implementation of the program. In 2022, the advisory panel met three times in March, May and August.

In addition to the program development, design and implementation advice provided by the advisory panel, the Department of Education (Department) also consulted with targeted stakeholders between 6 July and 20 July 2022 (first round of consultation) and between 14 September and 5 October 2022 (second round of consultation).

A total of 36 submissions were received: 27 submissions for the first round of consultation; and nine for the second round of consultation.

The stakeholders consulted included universities, university peak bodies and cohort groups, university staff in a private capacity, government agencies, and industry groups.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### **Other Grants (Research) Amendment (National Industry PhD Program) Guidelines 2022**

The *Other Grants (Research) Amendment (National Industry PhD Program) 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 *Other Grants Guidelines (Research) 2017* (the Principal Instrument) to establish the National Industry PhD program (the program).

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Grants under the program will be made for the purpose of supporting the training of research students. The program will provide funding to higher education providers to develop PhD Candidates into researchers who can work in both industry and academic settings, support high calibre industry professionals to become industry researchers with the potential to work in academic settings, contribute to industry-focused innovation and development, strengthen collaboration between Australian companies and universities, and support industry-focused PhD research projects.

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Candidates with industry experience to concurrently complete a university PhD while maintaining employment in a relevant industry.

### **Human rights implications**

The Amendment Instrument engages the following human rights:

- the right to work – Article 6 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)
- the right to education – Article 13 of the ICESCR.

#### Right to work

Article 6(1) of the ICESCR recognises “the right of everyone to the opportunity to gain [their] living by work” and that the State Parties will “take appropriate steps to safeguard this right”. Article 6(2) cites “technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual” as steps to be taken by a State Party to achieve the full realisation of the right contained in Article 6(1).

The Amendment Instrument allows for grants to be made to support new industry-led study and postgraduate research. This supports the right to work as it is a measure to support stronger links between universities and industry sector, and ensures that researchers will obtain skills in translating their research to industry settings, assisting researchers in building research careers in industry.

#### 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 as the grants support the provision of new PhD projects, and provides funding to higher education providers to support PhD Candidates and their employers to reduce the barriers for these PhD Candidates in undertaking further study. This will reduce these PhD Candidates’ barriers to education and support the right to education.

### **Conclusion**

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

**Minister for Education, The Hon Jason Clare MP**

**OTHER GRANTS (RESEARCH) AMENDMENT (NATIONAL INDUSTRY PHD PROGRAM)  
GUIDELINES 2022**

**EXPLANATION OF PROVISIONS**

**Section 1: Name**

1. This section specifies the name of the instrument as the *Other Grants (Research) Amendment (National Industry PhD Program) Guidelines 2022* (the Instrument).

**Section 2: Commencement**

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

**Section 3: Authority**

3. This section 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 the Schedule to the Instrument is amended as set out in the applicable items in the Schedule.

**Schedule 1 – Amendments**

*Other Grants Guidelines (Research) 2017*

**Item 1**

5. Item 1 repeals the definition of ‘research’ as the term ‘research’ has already been defined in the Instrument (see the definition of ‘R&D or research’).

**Item 2**

6. Item 2 inserts new definitions into subsection i.v.ii of the *Other Grants Guidelines (Research) 2017* (the Principal Instrument), to define ‘PhD’ as a Level 10 Doctoral Degree (Research) or Doctoral Degree (Professional) qualification as described in the Australian Qualifications Framework for which at least two-thirds of the student load for the course is research work, and ‘RTP Fees Offset’ and ‘RTP Stipend’ as having the same meaning as in the *Commonwealth Scholarship Guidelines (Research) 2017*.

### Item 3

7. Item 3 inserts a new Chapter 4 in the Principal Instrument to specify the National Industry PhD Program (the program), which is a program under which grants may be made in accordance with subsection 41-15(1) of the Act.
8. New section 4.1 sets out the particular purpose specified in the table in subsection 41-10(1) of the Act for which grants under the program are to be paid, and provides that the program is specified for the purpose of supporting the training of research students (item 8 of the table).
9. New section 4.5 sets out the objectives of the program.
10. New section 4.10 sets out the extra conditions of eligibility of grants made under the program.
11. Subsection 4.10(1) provides that grants under the program may only be provided to support PhD projects that are co-designed by eligible higher education providers and industry (the Industry Linked PhD stream), or undertaken by industry professionals who are supported by their employer to undertake a PhD project in partnership with a university (the Industry Researcher PhD stream).
12. Paragraph 4.10(2)(a) provides that grants under the program will only be provided to eligible higher education providers that are partnered with an industry partner that is a business or organisation with an Australian Business Number or Australian Company Number, undertakes research and development activities, and for the Industry Linked PhD stream, the industry partner must have entered into an agreement with the higher education provider to provide a yearly cash contribution.
13. Paragraph 4.10(2)(b) provides that grants will only be provided to higher education providers that enrol PhD candidates, for the purposes of the program, that meet certain criteria.
14. New section 4.15 sets out the method by which the amount of grants under the program are determined.
15. New subsection 4.15(1) provides that grants to participating higher education providers will be made up of three components: an administrative component, a student component and an industry component. The methods for working out the amount of each of the components are set out in subsections 4.15(2) to (7).
16. New section 4.20 provides that the amounts listed in section 4.15 are listed for the year 2023 and are to be indexed for subsequent years using the method of indexation set out in Part 5-6 of the Act.
17. New section 4.25 sets out the conditions that apply to grants under the program.
18. New subsections 4.25(1) to (5) specify that the participating higher education provider must provide the student component and industry component of the grant to the PhD Candidate and industry partner respectively, unless the PhD Candidate or the industry partner no longer meet the requirements of the program.
19. New subsections 4.25(6) and (7) set out conditions in respect of PhD Candidates, and provide that PhD Candidates must spend 20 to 50 per cent of the duration of their PhD Candidature either in the industry partner's facilities (for the Industry Linked PhD stream) or in the participating higher education provider's facilities (for the

Industry Researcher PhD stream) unless an exception is approved by the Department of Education (Department).

20. New subsection 4.25(8) specifies that the participating higher education provider must provide appropriate PhD supervisors, access to the provider's facilities and infrastructure, learning and development opportunities and support for the development of research skills to PhD Candidates in the program to ensure the PhD Candidates are making appropriate progress and to ensure the successful completion of the PhD project.
21. New subsections 4.25(9) to (11) specify that the participating higher education provider must enter into an agreement with the relevant industry partner for each PhD project, and that the agreement must place certain obligations on the industry partner.
22. New subsections 4.25(12) and (13) set out conditions in relation to reporting, and specify that the participating higher education provider must collect data and give that data to the Department. Subsection (13) specifies that the higher education provider must also, on request, provide a report on performance in the format requested by the Department.
23. New subsection 4.25(14) specifies that the participating higher education provider, if not an 'organisation' for the purposes of the *Privacy Act 1988* (the Privacy Act), must comply with the Australian Privacy Principles in the Privacy Act as if it were an 'organisation' for the purposes of the Privacy Act.