

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Higher Education Support Act 2003

Higher Education Support (Other Grants) Amendment (Disability Support Programs, Women in STEM and Regional University Study Hubs) Guidelines 2023

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.

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 the *Higher Education Support (Other Grants) Amendment (Disability Support Programs, Women in STEM and Regional University Study Hubs) Guidelines 2023* (the Amendment Instrument) rely on this provision.

PURPOSE AND OPERATION

The Amendment Instrument amends the Principal Instrument to increase the funding amounts for the Disability Support Programs (the Disability Support Fund and the Australian Disability Clearinghouse on Education and Training), extend the length of the Women in STEM Cadetships and Advanced Apprenticeships Program (the Women in STEM Program) and remove the course load requirement for participating students, and change the name of the 'Regional University Centres Program' to the 'Regional University Study Hubs Program'.

Disability Support Programs amendments

Paragraphs 41-15(2)(c) and (e) of the Act provide that the Principal Instrument may specify the amounts that will be spent on a grant program (that is specified for the purposes of Part 2-3 of the Act) in a particular year, and the method by which the amount of grants under the program will be determined. The Amendment Instrument increases the funding amount for the Disability Support Programs, which is relevant for determining the amounts that will be spent on the Disability Support Programs, and updates the method by which the amount of grants under the Disability Support Fund will be determined.

As part of the 2023-24 Budget, the Australian Government increased the total amount of funding available for the Disability Support Programs. This Amendment Instrument updates

the Principal Instrument to align with the total available funding for the Disability Support Programs for 2023 and forward years. This will enable the full amount of available program funding to be administered and expended in 2023 and forward years.

Women in STEM Program amendments

The Women in STEM Program supports women to pursue part-time study to obtain industry-relevant, pre-bachelor, higher education science, technology, engineering, and maths (STEM) qualifications. The Australian Government has extended the Women in STEM Program for two years to 2026-27 to allow more time for women to participate. The extension to the Women in STEM Program has also facilitated the removal of the 0.5 equivalent full time student load (EFTSL) course load requirement, providing greater flexibility to participants regarding the rate of study undertaken on a part-time basis by making it possible for students to take a longer time to complete their study.

The extension to the Women in STEM Program will also help deliver a better trained, more productive, workforce by enabling women currently in the workforce to maintain employment while supporting them to upskill or reskill to take advantage of future workforce opportunities. The extension to the Women in STEM Program supports the Government's focus on achieving greater diversity in Australia's science and technology sectors and building Australia's STEM workforce capabilities.

Regional University Study Hubs Program amendments

The changes in the Principal Instrument to rename the 'Regional University Centres' to the 'Regional University Study Hubs' have been made to reflect the government's preference to refer to those bodies as Regional University Study Hubs rather than Regional University Centres.

IMPACT ANALYSIS

Disability Support Programs amendments

The Office of Impact Analysis has advised no Impact Analysis is required for the amendments relating to the Disability Support Programs as this instrument is unlikely to have more than a minor regulatory impact (OIA23-05623).

Women in STEM Program amendments

The Office of Impact Analysis considers there will be nil regulatory impacts from the proposal in relation to the amendments for the Women in STEM Program. Because the matter will be considered by a committee of Cabinet, Impact Analysis requirements can be satisfied by noting the Women in STEM Program is non-regulatory in nature and has zero regulatory costs (OIA reference ID: OBPR23-03955).

Regional University Study Hubs Program amendments

The Office of Impact Analysis has advised no Impact Analysis is required for the amendments relating to the Regional University Study Hubs Program as the changes are unlikely to have more than a minor regulatory impact (OIA23-05798).

COMMENCEMENT

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

CONSULTATION

Disability Support Programs amendments

Following the 2023-24 Budget, the Department of Education (the department) advised higher education providers eligible for and in receipt of funding under the Disability Support Programs of the Budget decision to increase the Disability Support Programs' funding. The department also advised relevant peak bodies of the increase in available program funding, including:

- Universities Australia;
- the Australian Tertiary Education Network on Disability;
- Equity Practitioners in Higher Education Australasia;
- the National Centre for Student Equity in Higher Education;
- TAFE Directors Australia;
- Independent Higher Education Australia; and
- Independent Tertiary Education Australia.

No providers or peak bodies raised concerns regarding the increase to the Disability Support Programs' funding.

Women in STEM Program amendments

Broad consultation across government was undertaken as part of seeking authority to extend the Women in STEM Program in the 2023-24 Federal Budget. The department consulted with the following Commonwealth agencies:

- the Department of Infrastructure, Transport, Regional Development, Communications, and the Arts;
- the Department of Prime Minister and Cabinet;
- the Department of Finance;
- Treasury;
- the Department of Employment and Workplace Relations; and
- the Department of Industry, Science and Research.

Those government stakeholders did not raise any concerns in relation to the extension of the Women in STEM Program. The extension of the Women in STEM Program and the removal of EFTSL course load requirements also responds directly to feedback received from program participants, including approved higher education providers, employer partners, students enrolled in the Women in STEM Program, and potential students.

Regional University Study Hubs Program amendments

Existing Regional University Study Hubs have been kept informed regarding the name change, and have raised no issues or concerns. Publicly available information regarding the program has been updated to reflect the new name.

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 (Women in STEM and Regional University Study Hubs) Guidelines 2023

The *Higher Education Support (Other Grants) Amendment (Women in STEM and Regional University Study Hubs) Guidelines 2023* (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 Principal Instrument to increase the funding amounts for the Disability Support Programs (the Disability Support Fund and the Australian Disability Clearinghouse on Education and Training), extend the length of the Women in STEM Cadetships and Advanced Apprenticeships Program (the Women in STEM Program) and remove the course load requirement for participating students, and change the name of the 'Regional University Centres Program' to the 'Regional University Study Hubs Program'.

Disability Support Programs amendments

Paragraphs 41-15(2)(c) and (e) of the Act provide that the Principal Instrument may specify the amounts that will be spent on a grant program (that is specified for the purposes of Part 2-3 of the Act) in a particular year, and the method by which the amount of grants under the program will be determined. The Amendment Instrument increases the funding amount for the Disability Support Programs, which is relevant for determining the amounts that will be spent on the Disability Support Programs, and updates the method by which the amount of grants under the Disability Support Fund will be determined.

As part of the 2023-24 Budget, the Australian Government increased the total amount of funding available for the Disability Support Programs. This Amendment Instrument updates the Principal Instrument to align with the total available funding for the Disability Support Programs for 2023 and forward years. This will enable the full amount of available program funding to be administered and expended in 2023 and forward years.

Women in STEM Program amendments

The Women in STEM Program supports women to pursue part-time study to obtain industry-relevant, pre-bachelor, higher education science, technology, engineering, and maths (STEM) qualifications. The Australian Government has extended the Women in STEM Program for two years to 2026-27 to allow more time for women to participate. The

extension to the Women in STEM Program has also facilitated the removal of the 0.5 equivalent full time student load (EFTSL) course load requirement, providing greater flexibility to participants regarding the rate of study undertaken on a part-time basis by making it possible for students to take a longer time to complete their study.

The extension to the Women in STEM Program will also help deliver a better trained, more productive, workforce by enabling women currently in the workforce to maintain employment while supporting them to upskill or reskill to take advantage of future workforce opportunities. The extension to the Women in STEM Program supports the Government's focus on achieving greater diversity in Australia's science and technology sectors and building Australia's STEM workforce capabilities.

Regional University Study Hubs Program amendments

The changes in the Principal Instrument to rename the 'Regional University Centres' to the 'Regional University Study Hubs' have been made to reflect the government's preference to refer to those bodies as Regional University Study Hubs rather than Regional University Centres.

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 makes amendments to the provisions of the Principal Instrument to increase the funding amounts for the Disability Support Programs. The Disability Support Programs are provided for the purpose of promoting equality of opportunity in higher education, under item 1 of the table in section 41-10 of the Act. This supports the right to education by providing more funding to the Disability Support Programs, which promote equality of opportunity in higher education.

The Amendment Instrument also amends the Principal Instrument to extend the length of the Women in STEM Program. By extending the Women in STEM Program, a greater number of women will receive assistance in undertaking higher education, and will assist higher education providers and employers in improving access to this traditionally underrepresented cohort of students in STEM Fields of Education.

As such, the increase of funding for the Disability Support Programs and the extension of the Women in STEM Program will support the right to education by promoting equality of

opportunity in higher education and supporting more students with accessing higher education.

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 (DISABILITY SUPPORT PROGRAMS, WOMEN IN STEM AND REGIONAL STUDY HUBS) GUIDELINES 2023

EXPLANATION OF PROVISIONS

Section 1: Name

1. This section specifies the name of the instrument as the *Higher Education Support (Other Grants) Amendment (Disability Support Programs, Women in STEM and Regional Study Hubs) Guidelines 2023* (the Amendment Instrument).

Section 2: Commencement

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

Section 3: Authority

3. This section provides that the Amendment 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 each instrument that is specified in a Schedule to the Amendment Instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

Schedule 1 – Amendments

Part 1 – Disability Support Programs

Higher Education Support (Other Grants) Guidelines 2022

Item 1

1. Item 1 repeals subsections 39(1) and 39(2) of the *Higher Education Support (Other Grants) Guidelines 2022* (the Principal Instrument) and substitutes new subsections 39(1) and (2).
2. New subsection 39(1) updates the funding amount available for the Disability Support Programs for 2023, 2024, 2025 and future years. Paragraphs 39(1)(a) and (b) set out the amounts that are available for the Disability Support Programs for 2023 and 2024, and paragraph 39(1)(c) sets out that the amount that is available for the Disability Support Programs for 2025 is to be determined by multiplying an amount (\$13,143,418) by the indexation factor (within the meaning of subsection 198-15(1) of the Act) for 2025 (the 2025 DSP Grants total).
3. Paragraph 39(1)(c) provides that the funding amount available for Disability Support Programs for 2025 is to be determined by multiplying \$13,143,418 by the indexation factor, and does not specify a specific funding amount (like for 2023 and 2024). This is because the amount of program funding available in 2023 and 2024 differs from the amount available in 2025 and future years. This is due to increased program funding commencing in the middle of the 2023-24 financial year, and a rollover of 2023 program funds into 2024 agreed by the Department of Finance. This increased program funding amount is not available for 2025 and later years. Further, the amount currently specified in paragraph 39(1)(c) for the 2025 grant year (\$13,143,418) is an amount that has not been indexed for 2025 as the indexation factor for 2025 cannot yet be determined.
4. New paragraph 39(1)(d) provides that for all future years, the total amount available for the Disability Support Programs is the 2025 DSP Grants total as indexed under section 40.
5. New subsection 39(2) provides the updated method for determining the funding amounts for the Disability Support Fund for 2023, 2024, 2025 and future years.

Item 2

6. Current paragraph 39(5)(a) of the Principal Instrument provides that a student with disability and high cost needs means a domestic student enrolled with a provider, who has been assessed by the provider as having disability, and has received from the provider educational support and equipment related to that disability in a

calendar year for an amount that exceeds \$10,271 in 2022, and provides that this figure is subject to indexation under section 40 of the Principal Instrument.

7. Item 2 amends paragraph 39(5)(a) to change the amount specified for 2022 to the updated 2023 amount.

Item 3

8. Current section 40 of the Principal Instrument provides that the amounts in specific provisions in the Principal Instrument are to be indexed for subsequent years using the method of indexation set out in Part 5-6 of the Act.
9. Item 3 amends section 40 to refer to the updated provisions which specify the amounts that need to be indexed for future years.

Part 2 – Women in STEM Cadetships and Advanced Apprenticeships Program

Higher Education Support (Other Grants) Guidelines 2022

Item 4

10. Item 4 amends paragraph 47(2)(a) of the Principal Instrument to clarify that the Commonwealth allocates employer reserved places for the Women in STEM Program through the deed of agreement entered into with grant recipients.

Item 5

11. Item 5 repeals section 49 of the Principal Instrument.
12. Current section 49 provides further detail about employer reserved places under the Women in STEM Program, and provides that employer reserved places under the Women in STEM Program are only available to be allocated across the 2021, 2022, 2023 and 2024 years. Current section 49 also explains that each employer reserved place is equivalent to 0.5 of an equivalent full time student load (EFTSL), and provides that employer reserved places would be allocated based on results of an application process conducted by the department. The 0.5 EFTSL requirement currently requires that participating students undertake a 0.5 EFTSL course load per year.
13. Item 5 repeals section 49 to reflect that employer reserved places are available to be allocated across more than the 2021, 2022, 2023 and 2024 years and removes the EFTSL requirement to allow more flexibility for students in completing their course of study under the Women in STEM program.

Item 6

14. Item 6 amends subsection 50(1) of the Principal Instrument.
15. Current subsection 50(1) provides that the Minister will specify the grant amount for a provider or Women in STEM employer under paragraph 41-30(b) of the Act, but that specification of the grant amount is subject to the provision in subsection 50(4) (which provides that the maximum grant amount for a Women in STEM employer is \$5000 for a student, for a year, over the duration of the course of study).
16. Item 6 amends subsection 50(1) of the Principal Instrument to provide that the Minister's specification of a grant amount for a Women in STEM employer under paragraph 41-30(b) of the Act is subject to both the provisions in subsections 50(4) and new subsection 50(5).

Item 7

17. Item 7 amends subsection 50(4) of the Principal Instrument.
18. Current subsection 50(4) provides that the maximum grant amount for a Women in STEM employer is \$5000 for a student, for a year, over the duration of the course of study.
19. Item 7 makes a minor change to subsection 50(4) make clearer that the maximum grant amount for a Women in STEM employer is \$5000 for a student for each year of study during their course of study.

Item 8

20. Item 8 inserts new subsection 50(5) in the Principal Instrument.
21. New subsection 50(5) provides that, notwithstanding subsection 50(4) (which provides that the maximum grant amount for a Women in STEM employer is \$5000 for a student, for each year, over the duration of the course of study), a Women in STEM employer will not be eligible to receive more than \$10,000 in relation to a student undertaking a course of study that leads to an Australian Qualifications Framework (AQF) qualification at level 5, and \$20,000 in relation to a student undertaking a course of study that leads to an AQF qualification at level 6.
22. This new provision reflects that while section 49 has been repealed in order to give students more flexibility to complete their course of study (by not requiring that students undertake their study with a 0.5 EFTSL course load), Women in STEM employers will only be entitled to receive the amount of funding that they would have been entitled to receive if their employee had been completing their course at a 0.5 EFTSL load.

Part 3 – Regional University Study Hubs

Higher Education Support (Other Grants) Guidelines 2022

Items 9 to 11

23. Items 9 to 11 amend paragraphs 18(2)(a) and 18(2)(b) and section 19 of the Principal Instrument to omit 'Regional University Centres' and insert 'Regional University Study Hubs' which reflects that Regional University Centres will now be known as Regional University Study Hubs.

Item 12

24. Item 12 repeals and substitutes the heading of Part 9 to omit 'Regional University Centres' and insert 'Regional University Study Hubs'.

Item 13

25. Item 13 amends subsection 64(1) of the Principal Instrument to omit 'Regional University Centres' and insert 'Regional University Study Hubs'.

Items 14 and 15

26. Items 14 and 15 repeal and replace subsections 64(2) and 66(1) in order to change the references to Regional University Centres to instead refer to Regional University Study Hubs.