

## **EXPLANATORY STATEMENT**

**Issued by the authority of the Minister for Education**

***Higher Education Support Act 2003***

***Other Grants (Research) Amendment (Australia's Economic Accelerator Program)  
Guidelines 2023***

### **AUTHORITY**

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may, by legislative instrument, make Other Grants Guidelines providing for matters required, or permitted by, or necessary or convenient to be provided in order to carry out or give effect to, 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. The amendments to the *Other Grants Guidelines (Research) 2017* (the Principal Instrument) made by the *Other Grants (Research) Amendment (Australia's Economic Accelerator Program) Guidelines 2023* (the Amendment Instrument) rely on this provision.

### **PURPOSE AND OPERATION**

The Amendment Instrument adds a new Chapter 5, and makes consequential changes to, the Principal Instrument, relating to the Australia's Economic Accelerator Program (AEA). The Amendment Instrument:

- inserts new definitions relevant to the AEA;
- sets out the purpose of the AEA, being to assist higher education providers to undertake programs of research, in areas of national priority, that progress development of technologies to a state of commercial investor readiness;
- sets out the program objectives, and processes for the approval of grants under the AEA;
- confers functions on priority managers, and the AEA Advisory Board, in relation to the AEA, consistent with subsection 42-75(1) and paragraph 42-15(d) of the Act;
- specifies University Colleges as bodies corporate eligible to receive funding under the AEA; and
- establishes the purpose, extra conditions of eligibility, and grant conditions for the two streams of the AEA: Ignite and Innovate grants.

## **REGULATORY IMPACT**

The Office of Impact Analysis (OIA) has advised that an Impact Analysis is not required (OIA23-05258).

## **COMMENCEMENT**

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

## **CONSULTATION**

A comprehensive consultation with key stakeholders from across the university sector, university peak bodies, industry peak bodies and government sectors was conducted from April to June 2023 to provide feedback and perspectives on matters contained in the Amendment Instrument.

The Department of Education (Department) also sought advice from other Government departments and agencies that run grant programs and/or are active in the innovation policy context, including the Commonwealth Scientific and Industrial Research Organisation.

The Department consulted on a few specific matters that are addressed in the Amendment Instrument, specifically, extra conditions of eligibility for grants in the AEA, how participating organisations should be defined, and conditions in relation to intellectual property.

Feedback from this consultation process informed the development of the Amendment Instrument and all stakeholders were supportive of the approach taken in the Amendment Instrument.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### *Other Grants (Research) Amendment (Australia's Economic Accelerator Program) Guidelines 2023*

The *Other Grants (Research) Amendment (Australia's Economic Accelerator Program) 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 adds a new Chapter 5, and makes consequential changes to, the *Other Grants Guidelines (Research) 2017*, relating to the Australia's Economic Accelerator Program (AEA). The Amendment Instrument:

- inserts new definitions relevant to the AEA;
- sets out the purpose of the AEA, being to assist higher education providers to undertake programs of research, in areas of national priority, that progress development of technologies to a state of commercial investor readiness;
- sets out the program objectives, and processes for the approval of grants under the AEA;
- confers functions on priority managers, and the AEA Advisory Board, in relation to the AEA, consistent with subsection 42-75(1) and paragraph 42-15(d) of the Act;
- specifies University Colleges as bodies corporate eligible to receive funding under the AEA; and
- establishes the purpose, extra conditions of eligibility, and grant conditions for the two streams of the AEA: Ignite and Innovate grants.

#### **Human rights implications**

##### Right to education

The Amendment Instrument engages the right to education in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). 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 engages and promotes the right to education by supporting the operation of the AEA, which provides funding for the commercialisation of university research which is aligned with national research priorities. In doing so, it promotes further education for researchers, providing vital funding to support prospective researchers in their efforts to develop industry-connected projects. This funding in turn assists higher

education providers to give more researchers the opportunity to conduct their research and further their education goals.

### **Conclusion**

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

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

**OTHER GRANTS (RESEARCH) AMENDMENT (AUSTRALIA'S ECONOMIC ACCELERATOR PROGRAM) GUIDELINES 2023**

**EXPLANATION OF PROVISIONS**

**Section 1: Name**

1. This section is a formal provision specifying the name of the instrument as the *Other Grants (Research) Amendment (Australia's Economic Accelerator Program) Guidelines 2023* (the Amendment Instrument).

**Section 2: Commencement**

2. This section provides that the Amendment Instrument commences 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 section provides that each instrument specified in a Schedule to the Amendment Instrument is amended or repealed as set out in the applicable items in the Schedule, and any other item in a Schedule to the Amendment Instrument has effect according to its terms.

**Schedule 1 – Amendments**

***Other Grants Guidelines (Research) 2017***

**Item 1: Subsection i.v.ii**

5. Item 1 inserts new definitions in subsection i.v.ii of the *Other Grants Guidelines (Research) 2017* (the Principal Instrument) to define terms that are used in the new provisions inserted by the Amendment Instrument.
6. This item defines the 'HERC IP Framework' to mean the intellectual property framework developed by the Department of Education (the department) as in force at the time the Amendment Instrument commenced. This definition incorporates the Higher Education Research Commercialisation Intellectual Property Framework (HERC IP Framework), which is a framework that includes a series of agreement templates and guidance materials relevant to accessing research expertise and

intellectual property. This is consistent with subparagraph 14(1)(b)(ii) of the *Legislation Act 2003* which permits the incorporation of any matter contained in any other instrument or writing as in force or existing at the time the Amendment Instrument commences. The HERC IP Framework can be found here: [Higher Education Research Commercialisation Intellectual Property Framework - Department of Education, Australian Government](#).

**Item 2: After paragraph 4.25**

7. Item 2 inserts a new Chapter 5 titled the Australia's Economic Accelerator Program in the Principal Instrument.
8. New paragraph 5.1 provides that the purpose of the program is to assist higher education providers to undertake programs of research, in areas of national priority, that progress development of technologies to a state of commercial investor readiness, under item 14 of the table in subsection 41-10(1) of the Act.
9. New paragraph 5.5 sets out the objectives of the AEA. This paragraph provides that the objectives include supporting higher education providers to engage with industry partners, supporting research activities aligned to national priority areas, boosting the research capability of higher education providers, fostering a culture of collaboration between universities and industry, and encouraging industry engagement with university research.
10. New paragraph 5.10 provides that grants under the AEA will be approved by the Minister in writing, made in respect of projects, and are subject to conditions imposed under subsection 41-25(2) of the Act.
11. New paragraph 5.15 sets out the functions of priority managers, who will assist with the administration of the program. Priority managers are engaged by the Secretary of the Department of Education (the department) under section 42-75 of the Act. Priority managers perform any functions conferred by the Amendment Instrument in relation to the AEA (paragraph 42-75(1)(a) of the Act) and provide technical and specialist advisory services to assist the AEA Advisory Board (the Board) in performing any functions conferred by the Principal Instrument on the Board in relation to the AEA (paragraph 42-75(1)(b) of the Act).
12. The functions conferred on priority managers for the purposes of paragraph 42-75(1)(a) of the Act are set out in new paragraph 5.15 and include providing advice to the department and to potential grant recipients, assessing pitches and expressions of interest in relation to AEA grants, making recommendations to the department on the merits of eligible Ignite grant applications, shortlisting eligible Innovate grant applications prior to the Board making recommendations to the Minister about the making of grants, promoting research commercialisation and the AEA, assisting research and industry stakeholders and creating partnerships to

benefit the AEA, and assisting the department in the management of funded projects as required.

13. New paragraph 5.20 confers an additional function on the AEA Advisory Board (a board that is established under Subdivision 42-B of the Act). New paragraph 5.25 provides that the AEA Advisory Board has an additional function, other than the functions outlined in section 42-15 of the Act, of making recommendations to the Minister or the department on the merits of eligible Innovate Grant applications.
14. The AEA is then divided into two funding streams: Ignite Grants and Innovate Grants. Part 1 of Chapter 5 relates to Ignite Grants.
15. New paragraph 5.25 sets out the purpose of Ignite Grants, which may be made to providers under the AEA for the purposes as described in paragraph 5.5, and specifically, for the purposes of assisting providers with demonstrating the commercial feasibility of a project by undertaking testing in an industrially relevant environment that simulates the intended commercial use of the technology.
16. New paragraph 5.30 specifies bodies corporate for the purposes of item 14 in the table in subsection 41-10(1) of the Act that may be eligible to receive Ignite Grants, and sets out extra conditions of eligibility for recipients receiving an Ignite Grant.
17. New paragraph 5.35 sets out conditions applicable to Ignite Grants, including in relation to management and reporting of conflicts of interest; privacy and the protection of personal information; acknowledgement by the recipient that the grant is provided by the Commonwealth; liaison of the recipient with the department and priority managers and monitoring of the recipient by the department; the recipient indemnifying the Commonwealth in relation to certain acts; and intellectual property matters.
18. Part 2 of Chapter 5 relates to Innovate Grants.
19. New paragraph 5.40 sets out the purpose of Innovate Grants, which may be made to providers under the AEA for the purposes as described in paragraph 5.5, and specifically, for the purposes of assisting providers with developing and testing prototypes in an operational environment.
20. New paragraph 5.45 specifies bodies corporate for the purposes of item 14 in the table in subsection 41-10(1) of the Act that may be eligible to receive Innovate Grants, and sets out extra conditions of eligibility for recipients receiving an Innovate Grant.
21. New paragraph 5.50 sets out conditions applicable to Innovate Grants, including in relation to management and reporting of conflicts of interest; privacy and the protection of personal information; acknowledgement by the recipient that the grant is provided by the Commonwealth; liaison of the recipient with the department and priority managers and monitoring of the recipient by the department; the recipient indemnifying the Commonwealth in relation to certain acts; and intellectual property matters.