



# Higher Education Support Amendment (Startup Year) Guidelines 2023

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I, Jason Clare, Minister for Education, make the following guidelines.

Dated 18 January 2024

Jason Clare  
Minister for Education

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## **1 Name**

This instrument is the *Higher Education Support Amendment (Startup Year) Guidelines 2023*.

## **2 Commencement**

This instrument commences the day after this instrument is registered.

## **3 Authority**

This instrument is made under section 238-10 of the *Higher Education Support Act 2003*.

## **4 Schedules**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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# Schedule 1—Amendments to the *Higher Education Support (Administration) Guidelines 2022*

## *Higher Education Support (Administration) Guidelines 2022*

### **1 Section 12 (note)**

Omit “97-30(2) and 104-30(2)”, substitute “97-30(2), 104-30(2) and 128E-5(2)”.

### **2 Section 13 (note)**

Omit “97-30(2) and 104-30(2)”, substitute “97-30(2), 104-30(2) and 128E-5(2)”.

### **3 Section 14 (note)**

Omit “97-30(2) and 104-30(2)”, substitute “97-30(2), 104-30(2) and 128E-5(2)”.

### **4 Section 16**

Repeal section 16, substitute:

### **16 People who must receive a Commonwealth Assistance Notice**

For the purposes of subsections 169-5(1) and (1A) of the Act, a higher education provider must give a Commonwealth Assistance Notice to any person who meets the requirements set out in subsections 169-5(1) and (1A) of the Act.

### **5 After subsection 17(6)**

Insert:

- (6A) Where a higher education provider has selected a person to receive STARTUP-HELP assistance, the notice must include the following information, as applicable, to each person’s enrolment in an accelerator program course:
- (a) the identification code for the accelerator program course;
  - (b) the census date;
  - (c) the EFTSL value of the accelerator program course;
  - (d) the accelerator program course fee amount;
  - (e) the amount of any up-front payments;
  - (f) the amount of STARTUP-HELP assistance; and
  - (g) the amount of STARTUP-HELP debt.

### **6 After subsection 18(3)**

Insert:

- (4) For the purposes of subsection 169-5(3) of the Act, a notice that contains information in respect of STARTUP-HELP assistance must be given within 28 days of the earliest census date indicated in the notice under paragraph 17(6A)(b).

### **7 Part 6**

Repeal Part 6, insert:

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## **Part 6 – Publication requirements for census dates and EFTSL values**

### **21 Period for the purpose of determining census dates and EFTSL values**

- (1) For the purposes of subsection 169-25(1) of the Act, the period commences on the earliest enrolment date for the unit as determined by the higher education provider and ends on the completion date for the unit as determined by the higher education provider.
- (2) For the purposes of subsection 169-25(1A) of the Act, the period commences on the earliest enrolment date for the accelerator program course as determined by the higher education provider and ends on the completion date for the accelerator program course as determined by the higher education provider.
- (3) A period ascertained in accordance with subsections (1) and (2) is relevant only for the purposes of subsections 169-25(1) and (1A) of the Act and section 22 of this instrument.

### **22 Date by which, and manner in which, census dates and EFTSL values must be published by a higher education provider**

- (1) In accordance with subsection 169-25(3) of the Act, the higher education provider must publish census dates and EFTSL values for units of study and accelerator program courses, on the higher education provider's website on or before the earliest enrolment date for the relevant units of study or accelerator program courses, as determined by the higher education provider.
- (2) For the purposes of subsection (1), a higher education provider publishing EFTSL values for accelerator program courses must also publish information on how the provider determined the EFTSL value for the accelerator program course under section 28A.

### **23 Date by which and circumstances in which a published census date or published EFTSL value may be varied**

- (1) For the purposes of paragraph 169-25(4)(a) of the Act, a higher education provider may only vary a published census date or published EFTSL value if the variation occurs prior to the published census date for the unit or accelerator program course, the higher education provider has written approval of the Minister in accordance with paragraph 169-25(4)(b), and:
  - (a) the variation does not disadvantage a student enrolled, or a person seeking to enrol in the unit or course; and
  - (b) the variation is necessary to correct the published census date or EFTSL value of the unit or course due to administrative error or circumstances that did not apply at the time the census date or EFTSL value was determined.
- (2) Without limiting the generality of paragraph (1)(a), a student will be disadvantaged by a variation that:
  - (a) reduces the EFTSL value for a unit of study or accelerator program course;or

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- (b) brings the census date for a unit of study or accelerator program course to an earlier date.

#### **24 Date by which, and manner in which, a varied census date or EFTSL value must be published**

- (1) This section applies only if subsection 23(1) applies.
- (2) For the purposes of subsection 169-25(5) of the Act, where a higher education provider varies a published census date or published EFTSL value, the provider must publish the varied census date or EFTSL value on the higher education provider's website as soon as practicable after making the variation.

#### **25 Requirements for determining a census date**

For the purposes of subsection 169-25(2) of the Act, the date determined to be the census date under paragraphs 169-25(1)(a) or (1A)(a) must not be a date that falls less than 20 per cent of the time between the commencement and completion dates for the unit of study or accelerator program course.

#### **8 After Part 7**

Insert:

### **Part 7A – Determining the EFTSL value of an accelerator program course**

#### **28A EFTSL value for an accelerator program course**

For the purposes of subsection 169-28(4) of the Act, a higher education provider determining the EFTSL value of an accelerator program course under subsection 169-28(3A) of the Act, must determine the EFTSL value by reference to the amount of time taken to complete the accelerator program course on a full-time basis.



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## Schedule 2—Amendments to the *Higher Education Provider Guidelines 2023*

### *Higher Education Provider Guidelines 2023*

#### **1 Section 20**

Repeal section 20, substitute:

#### **20 Requirements for grievance procedures**

- (1) For the purposes of paragraphs 19-45(1)(a) and (b) and subsection 19-45(2) of the Act, a higher education provider, other than a Table A provider, must have a grievance procedure that meets the requirements specified in subsection (2) to ensure effective and fair handling of complaints:
  - (a) from the provider’s students, and from persons seeking to enrol in courses of study or accelerator program courses with the provider, relating to non-academic matters; and
  - (b) from the provider’s students, relating to academic matters.
- (2) These grievance procedures must contain the following elements:
  - (a) a formal arrangement for handling complaints which is easily accessible to students; is without charge, or at reasonable cost to students; and encourages timely resolution; and
  - (b) an arrangement for the internal investigation of complaints which remain unresolved by the process outlined at paragraph (2)(a) by an independent and impartial senior officer of the higher education provider nominated by the provider, or dedicated complaints committee or unit established by the provider; and
  - (c) a provision for external review of decisions made under paragraph (2)(b) by an independent person or body established or nominated by the higher education provider.
- (3) The higher education provider must:
  - (a) have a mechanism in place to implement the grievance procedures, including implementation of recommendations arising from any external review under paragraph (2)(c);
  - (b) ensure that the grievance procedures are complete, unambiguous and agreed to and ratified by the provider’s governing body;
  - (c) not victimise or discriminate against any complainant or respondent;
  - (d) make details of the grievance procedures publicly available;
  - (e) communicate the grievance procedures in writing to its staff and train its staff in their application;
  - (f) specify reasonable timelines for responses to each stage of the process;
  - (g) allow the complainant and/or respondent to be accompanied and assisted by a third party if desired;
  - (h) give reasons and full explanation in writing for decisions and actions taken as part of the procedures, if requested by the complainant and/or respondent;

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- (i) keep appropriate records of all grievances for at least five years, and allow parties to the complaint appropriate access to these records;
    - (j) ensure that such records are treated as confidential.
  - (4) Students or persons seeking to enrol in a course of study or accelerator program course with a higher education provider are entitled to access the grievance procedures as set out by that provider, regardless of the location of the campus at which the grievance has arisen, the student's place of residence or the mode in which they study.
  - (5) The procedures set out in the grievance procedures document do not replace or modify procedures or any other responsibilities which may arise under other higher education provider policies or under statute or any other law.

## **2 Section 22**

Repeal section 22, substitute:

### **22 Period in which a higher education provider provides or proposes to provide a unit of study or accelerator program course**

- (1) For the purposes of subsections 19-87(1), 19-90(1) and 19-95(1) of the Act, the period commences on the earliest enrolment date for the unit of study as determined by the higher education provider and ends on the completion date for the unit of study as determined by the provider.
- (2) For the purposes of subsection 19-92(1) and subsection 19-97(1) of the Act, the period commences on the earliest enrolment date for the accelerator program course as determined by the higher education provider and ends on the completion date for the accelerator program course as determined by the provider.

## **3 Section 23**

Repeal section 23, substitute:

### **23 Date by which, and manner by which, a higher education provider must publish the schedules of student contribution amounts, tuition fees and accelerator program course fees for a particular period**

- (1) For the purposes of paragraph 19-95(2)(b) of the Act, a higher education provider must publish a schedule of student contribution amounts for places and tuition fees on the provider's website on or before the earliest enrolment date for the unit of study as determined by the provider.
- (2) For the purposes of paragraph 19-97(3)(b) of the Act, a higher education provider must publish a schedule of the accelerator program course fees on the provider's website on or before the earliest enrolment date for the accelerator program course as determined by the provider.

## **4 Section 34**

Repeal section 34, substitute:

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## 34 Offering certain inducements

For the purposes of subsections 19-36A(2) and (4) of the Act, subsections 19-36A(1) and (2) of the Act do not apply to the following specified benefits:

- (a) the content and quality of the unit of study or accelerator program course;
- (b) the amount of the tuition fees for the unit of study or accelerator program course fees for the accelerator program course;
- (c) the availability of FEE-HELP assistance and HECS-HELP assistance for the unit of study or the availability of STARTUP-HELP assistance for the accelerator program course;
- (d) marketing merchandise up to the total value of \$30 per person;
- (e) the offering of money in the form of scholarships or bursaries;
- (f) for an accelerator program course, the offering of money in the form of investments into the student's startup business.

## 5 Section 37

Repeal section 37, substitute:

### 37 Publishing information

- (1) For the purposes of section 19-73 of the Act, a higher education provider must publish the following information in relation to each unit of study or accelerator program course offered by the provider:
  - (a) the mode of delivery of the unit of study or accelerator program course;
  - (b) whether the unit of study or accelerator program course will be delivered by the provider or by a third party;
  - (c) in relation to units of study, whether FEE-HELP assistance or HECS-HELP assistance is available for the unit of study and whether a person can be a Commonwealth supported student in relation to the unit of study;
  - (d) in relation to accelerator program courses, whether STARTUP-HELP assistance is available for the accelerator program course;
  - (e) in relation to units of study, whether there are any limits or conditions on the FEE-HELP assistance or HECS-HELP assistance available for the unit of study imposed on the provider's approval as a higher education provider; and
  - (f) in relation to accelerator program courses, whether there are any limits or conditions on the STARTUP-HELP assistance available for the accelerator program course imposed on the provider's approval as a higher education provider.
- (2) The information must be published by the higher education provider prominently on its website, and in a manner that is easily accessible without provision of login or contact information.
- (3) The information must:
  - (a) be published before the earliest day for enrolment in the unit of study or accelerator program course; and
  - (b) must remain published at least until the end of the period in which the unit of study or accelerator program course can be undertaken.

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## 6 Section 38

Repeal section 38, substitute:

### 38 Withdrawal from units of study or accelerator program courses

- (1) For the purposes of subsections 169-17(1) and 169-18(1) of the Act, a higher education provider must have processes and procedures that include:
  - (a) procedures for a student to withdraw from a unit of study, course of study or accelerator program course; and
  - (b) a procedure for a student to enrol in a unit of study that was part of a course of study with the provider in circumstances where the student had earlier withdrawn from a unit of study of that course undertaken with the provider.
- (2) The procedures for a student to withdraw from a unit of study, course of study, or accelerator program course, on or before the relevant census date, must not involve financial, administrative or other barriers to the withdrawal.
- (3) If a student withdraws from a unit of study, course of study or accelerator program course, the higher education provider must not, after the withdrawal, enrol the student in a unit of study, course of study or accelerator program course without the written permission of the student (which must be given after the withdrawal).

## 7 Section 39

Repeal section 39, substitute:

### 39 Genuine student

For the purposes of subsections 36-5(6), 104-1(1AB) and 128B-10(2) of the Act, in determining whether a student is a genuine student in relation to a unit of study being undertaken as part of a course of study or an accelerator program course, regard must be had to the following matters:

- (a) whether the student is reasonably engaged in the course of study or accelerator program course;
- (b) whether the student has been provided with information about the requirements for the course of study or accelerator program course, and the cost and duration of the course of study or accelerator program course;
- (c) whether the student has satisfied course requirements for the course of study or accelerator program course or participated in assessment activities for the course of study or accelerator program course;
- (d) if the course of study or accelerator program course is an online course—the number of occasions on which the student has logged in to the course is not insignificant;
- (e) whether the student has provided up-to-date contact details that enable the Department to contact the student to verify the student's enrolment in the course of study or accelerator program course; and
- (f) if the student is enrolled in another course of study or accelerator program course—the number of the enrolments and associated course loads would not make successful completion of a course of study or accelerator program course by the student impossible or highly improbable.