

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Education

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

### ***Higher Education Support Amendment (Maximum Payments for Other Grants) Determination 2024***

#### **AUTHORITY**

The *Higher Education Support (Maximum Payments for Other Grants) Determination 2020* (the Principal Instrument) is made under subsection 41-45(1B) of the *Higher Education Support Act 2003* (the Act). The Principal Instrument determines the maximum payments made under Part 2-3 of the Act in respect of a year starting on or after 1 January 2017.

Subsection 41-45(1D) of the Act provides that the Minister may, in writing, vary a determination under subsection 41-45(1B) of the Act for a year at any time before the end of that year. The amendment of the Principal Instrument by the *Higher Education Support Amendment (Maximum Payments for Other Grants) Determination 2024* (the Amendment Instrument) relies on that provision.

#### **PURPOSE AND OPERATION**

The Amendment Instrument amends the Principal Instrument to increase the maximum payment amount for payments made under Part 2-3 of the Act for 2024 and 2025.

The Amendment Instrument increases the maximum amount for payments under Part 2-3 of the Act for 2024 and 2025 to account for indexation and changes in the allocation of grant funding due to reallocation of funding across grant years and the provision of extra grant funding for certain grant programs. The Amendment Instrument also amends the Principal Instrument to determine a maximum payment amount for 2026.

#### **IMPACT ANALYSIS**

The Office of Impact Analysis (OIA) has been consulted and advised that a detailed Impact Analysis is not required (OIA ID: 24-08515).

#### **COMMENCEMENT**

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

#### **CONSULTATION**

Consultation was not undertaken on the Amendment Instrument as it does not create any new rights or liabilities or make any grants under Part 2-3 of the Act. The Amendment Instrument is a technical step that must be undertaken by the Minister to enable grants

under Part 2-3 to be made. As such, it was considered that broad consultation on the Amendment Instrument was not required.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

### Higher Education Support Amendment (Maximum Payments for Other Grants) Determination 2024

The *Higher Education Support Amendment (Maximum Payments for Other Grants) Determination 2024* (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 (Maximum Payments for Other Grants) Determination 2020* (the Principal Instrument) to increase the maximum payment amount for payments made under Part 2-3 of the *Higher Education Support Act 2003* (the Act) for 2024 and 2025.

The Amendment Instrument increases the maximum amount for payments under Part 2-3 of the Act for 2024 and 2025 to account for indexation and changes in the allocation of grant funding due to reallocation of funding across grant years and the provision of extra grant funding for certain grant programs. The Amendment Instrument also amends the Principal Instrument to determine a maximum payment amount for 2026.

#### **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

The Amendment Instrument promotes the right to education contained in Article 13 of the 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.”

By increasing the maximum payments for other grants, the Amendment Instrument facilitates the payment of grants under Part 2-3, for the range of purposes set out in the table in subsection 41-10(1) of the Act. Those purposes include promoting equality of opportunity in higher education, supporting the training of research students and supporting research and research capability of higher education providers. The purposes set out in the table in subsection 41-10(1) of the Act support the right to education.

#### **Conclusion**

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

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

## HIGHER EDUCATION SUPPORT AMENDMENT (MAXIMUM PAYMENTS FOR OTHER GRANTS) DETERMINATION 2024

### EXPLANATION OF PROVISIONS

#### **Section 1: Name**

1. This section provides that the name of the instrument is the *Higher Education Support Amendment (Maximum Payments for Other Grants) Determination 2024* (the Amendment Instrument).

#### **Section 2: Commencement**

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

#### **Section 3: Authority**

3. This section provides that the Amendment Instrument is made by the Minister under section 41-45 of the *Higher Education Support Act 2003* (the Act).

#### **Section 4: Schedules**

4. This section clarifies that the items in Schedule 1 to the Amendment Instrument have effect according to their terms (that is, to amend the *Higher Education Support (Maximum Payments for Other Grants) Determination 2020* (the Principal Instrument)).

### SCHEDULE 1 – AMENDMENTS

#### ***Higher Education Support (Maximum Payments for Other Grants) Determination 2020***

##### **Item 1: Paragraph 6(e)**

5. This item amends the amount which the total payments made under Part 2-3 of the Act must not exceed for the year 2024 as determined in the Principal Instrument.
6. The amount for the year 2024 has been increased from \$2,635,000,000 to \$2,715,000,000 to reflect the additional grant amounts accounting for indexation and the payment of grants under various programs.

##### **Item 2: Paragraph 6(f)**

7. This item amends the amount which the total payments made under Part 2-3 of the Act must not exceed for the year 2025 as determined in the Principal Instrument.
8. The amount for the year 2025 has been increased from \$2,689,000 to \$2,772,000,000 to reflect the additional grant amounts accounting for indexation and the payment of grants under various programs.

**Item 3: After paragraph 6(f)**

9. This item inserts a new paragraph 6(g) which determines the amount which the total payments made under Part 2-3 of the Act must not exceed for the year 2026.
10. New paragraph 6(g) determines that the maximum payment amount for the year 2026 for payments made under Part 2-3 of the Act is \$2,851,000,000.