

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Higher Education Support Act 2003

Commonwealth Grant Scheme Amendment (National Priorities) Guidelines 2024

AUTHORITY

Section 238-10 of the *Higher Education Support Act 2003* (the Act) provides that the Minister may make Commonwealth Grant Scheme Guidelines to, amongst other things, provide for matters necessary or convenient to be provided in order to carry out, or give effect to, the matters set out in Part 2-2 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 amendment to the *Commonwealth Grant Scheme Guidelines 2020* (the Principal Instrument) made by the *Commonwealth Grant Scheme Amendment (National Priorities) Guidelines 2024* (the Amendment Instrument) rely on this provision.

PURPOSE AND OPERATION

The Amendment Instrument amends the Principal Instrument to, for the purposes of paragraph 30-20(b) of the Act, update the national priorities specified in the Principal Instrument.

The Amendment Instrument amends the Principal Instrument to provide that it is a national priority to increase the number of persons from under-represented backgrounds undertaking courses of study in Education, Nursing, Engineering, Computing, Commerce and Society and Culture for courses commencing in 2023, 2024 and 2025 (instead of just courses commencing in 2023 and 2024).

This amendment will provide greater options for students from under-represented backgrounds to access higher education and to study in areas where there are current skills and workforce shortages.

IMPACT ANALYSIS

The Office of Impact Analysis (OIA) assessed the impact of the proposal as minor and determined that an Impact Analysis was not required (OIA reference number: OIA24-08706).

COMMENCEMENT

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

CONSULTATION

A competitive application process in 2022 informed the previous changes made to the Principal Instrument (made by the *Commonwealth Grant Scheme Amendment (National Priorities) Guidelines 2022*) to specify that it was a national priority to increase the number of persons from under-represented backgrounds undertaking courses of study in Education, Nursing, Engineering, Computing, Commerce and Society and Culture for courses commencing in 2023 and 2024.

That competitive application process was open to all Table A providers and selected non-Table A providers, and that process informed what courses or fields of study should be included in the description of the national priority.

Noting that the inclusion of this national priority was informed by that previous process and consultation with higher education providers in that process, and because the Amendment Instrument only changes the description of the national priority to include courses commencing in 2025, but otherwise does not change the national priority, it was considered unnecessary to undertake additional consultation in relation to the Amendment Instrument.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Commonwealth Grant Scheme Amendment (National Priorities) Guidelines 2024

The *Commonwealth Grant Scheme Amendment (National Priorities) Guidelines 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 *Commonwealth Grant Scheme Guidelines 2020* (the Principal Instrument) to, for the purposes of paragraph 30-20(b) of the *Higher Education Support Act 2003* (the Act), update the national priorities specified in the Principal Instrument.

The Amendment Instrument amends the Principal Instrument to provide that it is a national priority to increase the number of persons from under-represented backgrounds undertaking courses of study in Education, Nursing, Engineering, Computing, Commerce and Society and Culture for courses commencing in 2023, 2024 and 2025 (instead of just courses commencing in 2023 and 2024).

This amendment will provide greater options for students from under-represented backgrounds to access higher education and to study in areas where there are current skills and workforce shortages.

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 expands the national priorities in relation to which providers listed in section 8 of the Principal Instrument can receive funding, to ensure that providers can continue to receive funding to support students from under-represented backgrounds undertaking courses of study in 2025 in a range of different areas of study. This supports the right to education as it reduces barriers for students to undertake higher 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

COMMONWEALTH GRANT SCHEME AMENDMENT (NATIONAL PRIORITIES) GUIDELINES
2024

EXPLANATION OF PROVISIONS

Section 1: Name

1. This is a formal provision specifying the name of the *Commonwealth Grant Scheme Amendment (National Priorities) Guidelines 2024* (the Amendment Instrument).

Section 2: Commencement

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

Section 3: Authority

3. This provision 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 the 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

Commonwealth Grant Scheme Guidelines 2020

Item 1: Paragraph 10(d)

5. Section 10 of the *Commonwealth Grant Scheme Guidelines 2020* (the Principal Instrument) specifies, for the purposes of paragraph 30-20(b) of the Act, outcomes in the provision of higher education as national priorities.
6. Item 1 amends paragraph 10(d) of the Principal Instrument to provide that it is a national priority to increase the number of persons from under-represented backgrounds undertaking courses of study in Education, Nursing, Engineering, Computing, Commerce and Society and Culture for courses commencing in 2023, 2024 and 2025 (instead of just courses commencing in 2023 and 2024).