

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Social Services

Student Assistance Act 1973

Student Assistance (Education Institutions and Courses) Amendment (Masters by Coursework) Determination 2025

Purpose

The *Student Assistance (Education Institutions and Courses) Amendment (Masters by Coursework) Determination 2025* (the Amendment Determination) amends the *Student Assistance (Education Institutions and Courses) Determination 2019* (the Determination) to update the list of approved Masters courses in the table in Schedule 3 to the Determination. These tertiary course requirements are determined for the purposes of the *Student Assistance Act 1973* (the Act) and are relevant to a student's qualification for student payments.

Background

To qualify for student payments under the *Social Security Act 1991*, students must be undertaking an approved course of education or study. The *Social Security Act 1991* provides that a course is an approved course of education or study if it is a course determined under section 5D of the Act to be a secondary course or a tertiary course for the purposes of the Act (subsection 541B(5) for youth allowance, section 569B for austudy payment and section 1061PC for pensioner education supplement).

Subsection 5D(1) of the Act provides that the Minister may, for the purposes of the Act, determine in writing that:

- (a) a course of study or instruction is a secondary course, or a tertiary course; or
- (b) a part of a course of study or instruction is a part of a secondary course or part of a tertiary course.

The Determination specifies the courses and parts of courses determined by the Minister for these purposes.

Masters by coursework

The Amendment Determination amends the table in Schedule 3 to the Determination to update the list of approved tertiary Masters level courses by adding new Masters courses, updating the names of some existing Masters courses and removing some existing Masters courses.

Twice a year, the Department of Social Services (the department) invites higher education providers to submit applications for their professionally orientated Masters by coursework programs to be considered for approval for student payments. The amendments made by the Amendment Determination reflect the outcome of the first

round of applications considered in 2025. Further information on the assessment process can be found on the department's website at:

<https://www.dss.gov.au/our-responsibilities/families-and-children/programs-services/student-payments/approved-institutions-and-courses-for-student-payments>.

These amendments enable students studying the new approved Masters level courses to qualify for student payments under the social security law, that is, youth allowance (student), austudy payment and pensioner education supplement, provided they meet the other eligibility criteria for those payments.

Amendments to certain Masters course names ensures that courses with amended names continue to be approved courses for student payment purposes. In some cases, former course names have been retained in the Determination to ensure continuing students are not affected by course name changes. Where previous course names are removed from the Determination, higher education providers have advised the department that there are no students enrolled under those previous course names.

Masters level courses are removed at the request of the higher education provider. In these cases, higher education providers have advised the department that there are no students enrolled in these courses.

Commencement

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

Authority

The Amendment Determination is made under subsection 5D(1) of the Act. Subsection 5D(3) of the Act provides that a determination under subsection 5D(1) is a legislative instrument.

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. In making the Amendment Determination, the Minister is relying on this subsection in conjunction with the instrument-making power in subsection 5D(1) of the Act.

The Amendment Determination is a legislative instrument for the purposes of the *Legislation Act 2003* and is subject to disallowance.

Consultation

On 3 February 2025, the department invited higher education providers, referred by the Department of Education, to submit their courses for assessment. Guidelines for the approval of Masters by coursework courses for inclusion in the Determination are

available on the department's website at: <https://www.dss.gov.au/families-and-children-benefits-payments-student-payments/guidelines-for-approval-of-masters-courses-for-student-payments>.

Where a higher education provider sought inclusion of their Masters course in the Determination, the department will advise the provider of the outcome of the assessment process.

The department consulted with Services Australia on the intention to make the Amendment Determination, given the impact on student payment recipients. Services Australia did not raise any concerns.

The department did not consult with student payment recipients on the intention to make the Amendment Determination, as it is beneficial to students with more Masters courses being included, and no students adversely affected by courses being amended or removed.

Impact Analysis

The Amendment Determination does not require an Impact Analysis. The Office of Impact Analysis has reviewed the legislative impact of amendments made through the Masters by Coursework program and has provided a standing exemption for this program as regulatory changes are minor and likely to occur on a regular basis (Ref: OIA23-05989).

Availability of review

Decisions made under the social security law in relation to student payments are generally subject to internal and external merits review under Parts 4 and 4A of the *Social Security (Administration) Act 1999* (Administration Act). Such decisions will include those based on the approved courses in the Determination.

If a higher education provider disagrees with the outcome of their application for approval of a course, they may appeal the decision by writing to the Minister, and provide any additional information to support their appeal. Higher education providers may resubmit courses currently undergoing the accreditation process for assessment in a future round, once accreditation has been granted.

Information sharing

Information about a student that is collected by an officer for the purposes of youth allowance (student), austudy payment and pensioner education supplement, will have the character of protected information under the social security law.

The Administration Act has protections in place that limit the way in which protected information is handled. Under Division 3 of Part 5 of the Administration Act, a person will be authorised to record, disclose or use protected information, for example, where this is for the purposes of the social security law, with consent or in accordance with a public interest certificate. If the recording, disclosure or use of protected information

is not authorised under the Administration Act and the person knows or ought reasonably to know that the information is protected information, the person may commit an offence that is punishable on conviction by imprisonment for a term not exceeding two years.

Explanation of the provisions

Details of the *Student Assistance (Education Institutions and Courses) Amendment (Masters by Coursework) Determination 2025*

Section 1 - Name

Section 1 states how the instrument is to be cited, that is, as the *Student Assistance (Education Institutions and Courses) Amendment (Masters by Coursework) Determination 2025* (the Amendment Determination).

Section 2 – Commencement

Section 2 sets out a table providing for the commencement of the Amendment Determination on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the Amendment Determination is made under subsection 5D(1) of the *Student Assistance Act 1973*.

Section 4 - Schedules

Section 4 provides that each instrument that is specified in a Schedule to the Amendment Determination is amended as set out in the applicable items in that Schedule, and any other item in a Schedule to the Amendment Determination has effect according to its terms.

Schedule 1 to the Amendment Determination sets out the amendments to the *Student Assistance (Education Institutions and Courses) Determination 2019*.

Schedule 1 - Amendments

Item 1 inserts “Doctor of Medicine and Surgery” as a new course at the Australian National University in item 5 of the table in Schedule 3, before “Juris Doctor”.

Item 2 removes “Medicinae ac Chirurgiae Doctoranda” as a course at the Australian National University in item 5 of the table in Schedule 3.

Item 3 inserts “Doctor of Pharmacy” as a new course at Charles Darwin University in item 11 of the table in Schedule 3, before “Master of Clinical Audiology”.

Item 4 removes “Master of Pharmacy” as a course at Charles Darwin University in item 11 of the table in Schedule 3.

Item 5 inserts “Master of Speech Pathology” as a new course at Deakin University in item 15 of the table in Schedule 3, after “Master of Social Work”.

Item 6 removes “Master of Practical Theology” as a course at Eastern College Australia in item 16 of the table in Schedule 3.

Item 7 inserts a new item 17A into the table in Schedule 3, following item 17. New item 17A provides that “Master of Social Work Qualifying” is an approved course at EQUALS International.

Item 8 inserts “Master of Teaching (Birth to 5)” as a new course at Flinders University in item 20 of the table in Schedule 3, after “Master of Speech Pathology”.

Item 9 inserts a new item 24A into the table in Schedule 3, following item 24. New item 24A provides that “Master of Counselling and Psychotherapy” and “Master of Teaching (Early Childhood)” are approved courses at Ikon Institute of Australia.

Item 10 removes the references to “Master of Dietetic Practice” and “Master of Financial Analysis (Investment)” as courses at La Trobe University at item 29 of the table in Schedule 3.

Item 11 inserts “Master of Nurse Practitioner” as a new course at La Trobe University in item 29 of the table in Schedule 3, after “Master of Nanotechnology”.

Item 12 inserts “Master of Nursing Practice” as a new course at La Trobe University in item 29 of the table in Schedule 3, after “Master of Nursing (Nurse Practitioner)”.

Item 13 inserts “Master of Industrial Engineering” as a new course at the University of Melbourne in item 48 of the table in Schedule 3, after “Master of Geography”.

Item 14 inserts “Master of Nursing Practice (Preregistration)” as a new course at the University of New England in item 49 of the table in Schedule 3, after “Master of Nursing Practice”.

Item 15 inserts “Master of Psychology (Clinical) Advanced Entry” as a new course at the University of New England in item 49 of the table in Schedule 3, after “Master of Psychology (Clinical)”.

Item 16 inserts “Master of Social Work (Qualifying)” as a new course at the University of Newcastle in item 51 of the table in Schedule 3, after “Master of Professional Psychology”.

Item 17 inserts “Master of Nursing (Graduate Entry)” as a new course at the University of Queensland in item 53 of the table in Schedule 3, after “Master of Nurse Practitioner”.

Item 18 removes the reference to “Master of Surveying” as a course at the University of South Australia in item 54 of the table in Schedule 3.

Item 19 inserts “Master of Education (Guidance, Counselling and Careers)” as a new course at the University of Southern Queensland in item 55 of the table in Schedule 3, after “Master of Education (Guidance and Counselling)”.

Item 20 removes the references to “Master of Engineering Science”, “Master of Learning and Teaching” and “Master of Professional Accounting” as courses at the University of Southern Queensland in item 55 of the table in Schedule 3.

Item 21 inserts “Master of Professional Engineering” as a new course at the University of Southern Queensland in item 55 of the table in Schedule 3, after “Master of Learning and Teaching (Secondary)”.

Item 22 inserts “Master of Dietetics (Sports Nutrition)” as a new course at the University of the Sunshine Coast in item 59 of the table in Schedule 3, after “Master of Counselling”.

Item 23 inserts “Juris Doctor” as a new course at Western Sydney University in item 63 of the table in Schedule 3, after “Doctor of Medicine”.

Statement of Compatibility with Human Rights

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

Student Assistance Act 1973

Student Assistance (Education Institutions and Courses) Amendment (Masters by Coursework) Determination 2025

The *Student Assistance (Education Institutions and Courses) Amendment (Masters by Coursework) Determination 2025* (the Amendment Determination) 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 Determination amends the *Student Assistance (Education Institutions and Courses) Determination 2019* (the Determination) to update the list of approved Masters courses in the table in Schedule 3 to the Determination. These tertiary course requirements are determined for the purposes of the *Student Assistance Act 1973* (the Act) and are relevant to a student's qualification for student payments.

Human rights implications

The Amendment Determination engages the following human rights:

Right to education

The Amendment Determination engages the right to education contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 13 recognises the important personal, societal, economic and intellectual benefits of education. Article 13 also provides the secondary education in all its different forms, including higher education, shall be made generally available and accessible to all by every appropriate means.

By determining that certain Masters courses are approved tertiary courses, which in turn assists people studying those courses to qualify for student payments, the Amendment Determination may enable students to access education and is therefore compatible with human rights.

Right to social security and right to an adequate standard of living

The Amendment Determination engages the right to social security contained in Article 9 of the ICESCR. Article 9 requires that a system be established under domestic law and that public authorities must take responsibility for the effective administration of the system. The social security system must provide a minimum

essential level of benefits to all individuals and families that will enable them to cover essential living costs.

Article 11 of the ICESCR recognises the right of everyone to an adequate standard of living including adequate food, water and housing, and to the continuous improvement of living conditions.

Article 4 of the ICESCR provides that countries may limit the right to social security in a way determined by law only in so far as this may be compatible with the nature of the rights contained within the ICESCR and solely for the purpose of promoting the general welfare in a democratic society. Such a limitation must be proportionate to the objective to be achieved.

The *Social Security Act 1991* provides access to social security for students through equity measures that provide financial assistance to help meet the costs associated with study. To qualify for student payments, a student must meet specified criteria, including in relation to their course of study, study load and study progress.

A student undertaking a course specified in the Determination may be able to qualify for student payments under the social security law, that is, youth allowance (student), austudy payment and pensioner education supplement, provided they meet the other eligibility criteria for those payments.

By determining that certain Masters courses are approved tertiary courses, which in turn assists people studying those courses to qualify for student payments, the Amendment Determination may enable more students to access social security payments, as well as an adequate standard of living by being supported to study, and is therefore compatible with human rights.

Conclusion

The Amendment Determination is compatible with human rights as it promotes and supports the right to education, the right to social security and the right to an adequate standard of living. To the extent a human rights obligation is engaged or limited, the impact is for a legitimate objective and is reasonable, necessary and proportionate.

The Hon Amanda Rishworth MP, Minister for Social Services