

Student Assistance (Education Institutions and Courses) Amendment Determination 2012 (No. 1)

FRLI ID: F2012L02588

Tabled in the House of Representatives and Senate on 5 February 2013

Portfolio: Tertiary Education, Skills, Science and Research

PJCHR comments: [Report 3/13](#), tabled on 13 March 2013

Response received: 26 April 2013

Summary of committee view

3.1 The committee thanks the Minister for his response and makes no further comment on this instrument.

Background

3.2 This instrument amends the list of Masters courses provided by higher education providers that are classified as 'tertiary courses' for the purposes of the *Student Assistance Act 1973* (the Act). The determination of courses as 'tertiary courses' for the purposes of the Act allows people studying those courses to qualify for certain income support payments under social security law, such as Austudy and Youth Allowance (provided they meet the other eligibility criteria for those payments).

3.3 The instrument lists 35 new courses, replaces the name of four courses, and removes three existing courses from the list of 'tertiary courses'. The three courses removed from the list are:

- Master of Nursing (Nurse Practitioner), Griffith University;
- Master of Teaching (Professional Practice) – Secondary, Griffith University;
- Master of Teaching (Professional Practice) – Primary, Griffith University.

3.4 These three courses were removed at the request of the education provider as the provider considered that the courses are no longer eligible for approval.

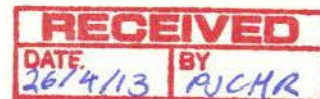
3.5 The committee sought information as to why it is considered that the three courses are 'no longer eligible for approval.' The committee also sought clarification of the possible impact that the removal of the three courses from the list of 'tertiary courses' may have on the right to education and the right to social security.

3.6 The Minister's response is attached.

Committee's response

3.7 The committee thanks the Minister for his response which indicated that the three courses referred to above have been discontinued by Griffith University. In light of this information the committee makes no further comment on this instrument.

3.8 The committee notes that it would have been helpful had this information been included in the statement of compatibility.



THE HON DR CRAIG EMERSON MP

Minister for Tertiary Education, Skills, Science and Research
Minister for Trade and Competitiveness
Minister Assisting the Prime Minister on Asian Century Policy

Mr Harry Jenkins MP
Member for Scullin
Chair
Parliamentary Joint Committee on Human Rights
S1.111
Parliament House
CANBERRA ACT 2600

Harry
Dear Mr Jenkins

Thank you for your letter of 13 March 2013 to the former Minister for Tertiary Education, Skills, Science and Research on behalf of the Parliamentary Joint Committee on Human Rights (the Committee), regarding the Student Assistance (Education Institutions and Courses) Amendment Determination 2012 (No.1) (the Instrument). Your letter has been referred to me as the new Minister for Tertiary Education, Skills, Science and Research. I note that the Committee seeks clarification on a number of issues which are addressed below.

The Committee seeks information as to why it is considered that the three courses are no longer eligible for approval'.

As noted in the Committee's review of the Instrument, the three courses (Master of Nursing (Nurse Practitioner), Master of Teaching (Professional Practice) – Secondary and Master of Teaching (Professional Practice) – Primary) were removed from Schedule 3 of the *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2)* (the Determination) by the Instrument due to a request from the education provider, Griffith University. My Department has been advised that Griffith University has discontinued these courses, and for this reason, these courses are no longer eligible for approval for inclusion in Schedule 3 of the Determination.

The Committee seeks clarification in relation to the possible impact that the removal of the three courses from the list of 'tertiary courses' may have on the right to social security.

Article 9 of the International Convention on Economic, Social and Cultural Rights (ICESCR) provides that 'States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.' The Committee on Economic, Social and Cultural Rights has stated that parties to the ICESCR must ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and

sanitation, foodstuffs, and the **most basic forms of education**¹.

Consistent with its obligations under article 9 of ICESCR, the Commonwealth, through the *Social Security Act 1991*, provides certain income support payments under social security law (such as Youth Allowance, Austudy and the Pensioner Education Supplement) to Masters students undertaking courses listed in Schedule 3 of the Determination. It is a prerequisite of these income support payments that Masters students undertake courses listed in Schedule 3 of the Determination. As Griffith University has discontinued these courses, regardless of whether or not the Instrument removed the courses from Schedule 3 of the Determination, students would not be able to undertake these courses and would no longer be eligible for the income support payments. Therefore, the removal of the courses does not, by itself, impact on the right to social security.

The Committee seeks clarification in relation to the possible impact that the removal of the three courses from the list of 'tertiary courses' may have on the right to education.

Paragraph 13(c) of 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

As Griffith University has discontinued the three courses, the Instrument by itself does not affect the ability of students to access these courses and therefore does not impact on the right to education.

Thank you for raising your concerns with me and I trust the information provided is helpful.

Yours sincerely

A handwritten signature in black ink that reads "Craig" followed by a stylized flourish.

CRAIG EMERSON

17 APR 2013

¹ Committee on Economic, Social and Cultural Rights, General Comment 19, The right to social security (art. 9) (Thirty-ninth session, 2007), U.N. Doc. E/C.12/GC/19 (2008).