EXPLANATORY STATEMENT

Approval and Notice of Approval under clauses 6 and 11 of Schedule 1A to the Higher Education Support Act 2003

VET Provider Approval No. 10 of 2012

Issued by the authority of the
Minister for Tertiary Education, Skills, Science and Research

Subject: Higher Education Support Act 2003 (HESA)
VET Provider approval and Notice of Approval under clauses 6 and 11 of Schedule 1A to HESA

Authority

Schedule 1A to HESA makes provision for the VET FEE-HELP Assistance Scheme. Clause 6 of Schedule 1A provides for the approval of bodies as VET Providers by the Minister, while clause 11 of Schedule 1A provides that the Minister must decide an application for approval as a VET Provider (paragraph 11(1)(a)) and cause the applicant to be notified in writing whether or not the applicant is approved as a VET provider (paragraph 11(1)(b)).

Subclause 12(1) Schedule 1A to HESA stipulates that a Notice of Approval of a body as a VET Provider is a legislative instrument.

Under section 238-5 of HESA the Minister has delegated his powers under clauses 6 and 11 of Schedule 1A to HESA to an APS employee in the Department.

Purpose

This instrument approves Minister for Employment, Higher Education and Skills (ABN: 43 266 201 237) as a VET Provider under Clause 6 of Schedule 1A to HESA and as a consequence decides the application of Minister for Employment, Higher Education and Skills for the purposes of paragraph 11(1)(a) of Schedule 1A to HESA. The instrument also gives Minister for Employment, Higher Education and Skills notice of that approval for the purposes of paragraph 11(1)(b) of Schedule 1A to HESA.

Background

VET FEE-HELP is an income contingent loan scheme for the vocational education and training (VET) sector that is part of the Higher Education Loan Program (HELP). It is an extension of the higher education FEE-HELP arrangements.
VET FEE-HELP assists eligible students to pay for all or part of their VET tuition fees when studying one or more of the following eligible accredited VET courses of study: diploma; advanced diploma; graduate certificate; and graduate diploma.

Bodies corporate that are also Registered Training Organisations (RTOs) are able to apply to become approved as VET providers. If approved, a VET provider will be able to offer VET FEE-HELP assistance to its eligible students.

Commencement
In accordance with subclause 12(2) of Schedule 1A to HESA and paragraph 12(1)(d) of the Legislative Instruments Act 2003, the notice and the decision to approve Minister for Employment, Higher Education and Skills as a VET provider take effect on the day after the notice is registered on the Federal Register of Legislative Instruments.

Consultation
Consultation was not undertaken and was not considered necessary in this case because the notice confers a benefit on Minister for Employment, Higher Education and Skills and this body is the only body affected by the notice. This notice will not have a direct or substantial indirect effect on business, nor will it restrict competition.
Statement of Compatibility with Human Rights

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

Notice of Approval - VET Provider Approval

This Legislative Instrument (the 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 Instrument is made by the Minister under subclause 6(1), paragraph 11(1)(b) and subclause 12(1) of Schedule 1A to the Higher Education Support Act 2003 (the Act).

The purpose of the Instrument is to approve Minister for Employment, Higher Education and Skills as a VET provider for the purposes of the VET FEE-HELP Assistance Scheme under the Act.

For the Minister to approve a body corporate as a VET provider the Minister must be satisfied that the body meets the requirements of subclause 6(1) of Schedule 1A to the Act.

Human rights implications

Right to education

The Instrument engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. In particular, this Instrument has an effect on the provision of vocational education and training by Minister for Employment, Higher Education and Skills by approving it as a VET provider for the purposes of the VET FEE-HELP Assistance Scheme under the Act, enabling it to offer VET FEE-HELP Assistance to its eligible students.

The objective of the Instrument is to approve Minister for Employment, Higher Education and Skills as a VET provider under the Act and thereby enable eligible students of Minister for Employment, Higher Education and Skills to access VET FEE-HELP Assistance for VET courses of study.
To the extent that the right to education is engaged, this right is promoted by the
Instrument as the Instrument approves Minister for Employment, Higher Education and
Skills as a VET provider, thereby extending VET FEE-HELP Assistance and the availability of
education to its eligible students.

Conclusion

This Instrument is compatible with human rights because it advances the protection of
human rights.