EXPLANATORY STATEMENT

Approval and Notice of Approval under section 16-25 and subsection 16-50(1) of the Higher Education Support Act 2003

Higher Education Provider Approval No. 7 of 2013

Issued by the authority of the Minister for Education

Authority

Section 16-25 of Higher Education Support Act 2003 (the Act) provides for the approval of bodies as Higher Education Providers by the Minister. Paragraph 16-50(1)(a) of the Act provides that the Minister must decide an application for approval as a Higher Education Provider and under paragraph 16-50(1)(b) cause the applicant to be notified in writing whether or not the applicant is approved as a Higher Education Provider.

Under section 238-5 of the Act the Minister has delegated his powers under section 16-25 and subsection 16-50(1) of the Act to an APS employee responsible for administering the Act.

Subsection 16-55(1) of the Act stipulates that a notice of approval under paragraph 16-50(1)(b) of the Act is a legislative instrument.

Purpose

This instrument:

a. approves Torrens University Australia Limited (ACN: 154 937 005 ABN: 99 154 937 005) as a Higher Education Provider under section 16-25 of the Act;

b. decides the application of Torrens University Australia Limited for the purposes of paragraph 16-50(1)(a) of the Act; and

c. gives Torrens University Australia Limited notice of that approval for the purposes of paragraph 16-50(1)(b) of the Act.

Commencement

In accordance with subsection 16-55(2) of the Act and paragraph 12(1)(d) of the Legislative Instruments Act 2003, the notice and the decision to approve Torrens University Australia Limited as a Higher Education 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 Torrens University Australia Limited 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**

This 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 section 16-25(1), paragraph 16-50(1)(b) and subsection 16-55(1) of the Act. The purpose of the Instrument is to approve Torrens University Australia Limited as a Higher Education provider for the purposes of FEE-HELP assistance under the Act. For approval as a Higher Education Provider the Minister must be satisfied that the body meets the requirements of section 16-25 of 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 education by Torrens University Australia Limited by approving it as a Higher Education provider for the purposes of FEE-HELP assistance under the Act, enabling it to offer FEE-HELP assistance to its eligible students.

The objective of the Instrument is to approve Torrens University Australia Limited as a Higher Education provider under the Act and thereby enable eligible students of Torrens University Australia Limited to access FEE-HELP assistance for courses of study.

To the extent that the right to education is engaged, this right is promoted by the Instrument as the Instrument approves Torrens University Australia Limited as a Higher Education provider, thereby extending 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.