EXPLANATORY STATEMENT

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

VET Provider Approval No. 28 of 2015

Issued by the authority of the Minister for Education and Training

Authority

Subclause 6(1) of Schedule 1A to the Higher Education Support Act 2003 (HESA) provides for the approval of bodies as VET Providers by the Minister. Subclause 12A(1) of Schedule 1A to HESA provides for the Minister to impose conditions on a body’s approval as a VET Provider. Paragraph 11(1)(a) of Schedule 1A to HESA provides that the Minister must decide an application for approval as a VET Provider and under paragraph 11(1)(b) cause the applicant to be notified in writing whether or not the applicant is approved as a VET provider.

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 responsible for administering HESA.

Subclause 12(1) of Schedule 1A to HESA stipulates that a notice of approval under paragraph 11(1)(b) of HESA is a legislative instrument.

Purpose

This instrument:

a. approves SCA Hair & Beauty Academy Pty Ltd (ACN: 165 710 609 ABN: 52 165 710 609) as a VET Provider under subclause 6(1) of Schedule 1A to HESA;

b. imposes conditions on the approval of SCA Hair & Beauty Academy Pty Ltd as a VET Provider under subclause 12A(1) of Schedule 1A to HESA;

c. decides the application of SCA Hair & Beauty Academy Pty Ltd for the purposes of paragraph 11(1)(a) of Schedule 1A to HESA; and

d. gives SCA Hair & Beauty Academy Pty Ltd 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.

In accordance with subclause 6(1) of Schedule 1A to HESA, bodies corporate that are also Registered Training Organisations (RTOs) are able to apply to become approved as a VET provider. If approved, a VET provider will be able to offer VET FEE-HELP assistance to its eligible students.

**Conditions**

The Minister has the power under Clause 12A of Schedule 1A to HESA, to impose or vary conditions on a body’s approval as a VET Provider. Conditions imposed under that provision are set out in the Notice of Approval for SCA Hair & Beauty Academy Pty Ltd approval as a VET Provider.

SCA Hair & Beauty Academy Pty Ltd is required to comply with the conditions from the date of commencement of the approval as a VET provider for the period stipulated for each condition in the Notice of Approval for SCA Hair & Beauty Academy Pty Ltd approval as a VET Provider.

In accordance with subclauses 33(1) and 36(1) of Schedule 1A to HESA, the Minister may suspend or revoke SCA Hair & Beauty Academy Pty Ltd approval as a VET provider if SCA Hair & Beauty Academy Pty Ltd breaches any of the conditions imposed on SCA Hair & Beauty Academy Pty Ltd approval as a VET provider.

**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 SCA Hair & Beauty Academy Pty Ltd 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 SCA Hair & Beauty Academy Pty Ltd 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 subclause 6(1), paragraph 11(1)(b) and subclause 12(1) of Schedule 1A to HESA. The purpose of the Instrument is to approve SCA Hair & Beauty Academy Pty Ltd as a VET provider for the purposes of the VET FEE-HELP Assistance Scheme under HESA. For approval as a VET Provider the Minister must be satisfied that the body meets the requirements of subclause 6(1) of Schedule 1A to HESA.

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 SCA Hair & Beauty Academy Pty Ltd by approving it as a VET provider for the purposes of the VET FEE-HELP Assistance Scheme under HESA, enabling it to offer VET FEE-HELP assistance to its eligible students.

The objective of the Instrument is to approve SCA Hair & Beauty Academy Pty Ltd as a VET provider under HESA and thereby enable eligible students of SCA Hair & Beauty Academy Pty Ltd 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 SCA Hair & Beauty Academy Pty Ltd 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.