EXPLANATORY STATEMENT

Higher Education Support (Polytechnic West) Higher Education Provider Approval Revocation 2016

Issued by the authority of the delegate of the Minister for Education and Training

Authority
Subsection 22-40(1) of the Higher Education Support Act 2003 (HESA) provides that the Minister may revoke a body’s approval as a higher education provider under HESA if the body requests in writing that the Minister revoke its approval.

Subsection 22-40(3) of HESA requires the revocation to be given in writing to the body. Subsection 22-40(3A) provides that the notice of revocation is a legislative instrument.

Purpose
This legislative instrument (the Revocation) revokes the approval of Polytechnic West as a higher education provider under subsection 22-40(1) of HESA.

The Revocation is one of three revocations of higher education provider approvals under section 22-40 of HESA which, combined with two new higher education provider approvals under section 16-25 of HESA, address, for the purposes of HESA, the Western Australian government’s decision to rationalise the administration of TAFE college campuses under that government’s Training Sector Reform Project. The related higher education provider approval revocations and higher education provider approvals are:

- Higher Education Support (Central Institute of Technology) Higher Education Provider Approval Revocation 2016;
- Higher Education Support (West Coast Institute of Training) Higher Education Provider Approval Revocation 2016;
- Higher Education Provider Approval No 1 of 2016 (North Metropolitan TAFE); and
- Higher Education Provider Approval No 2 of 2016 (South Metropolitan TAFE).

The Revocation and related higher education provider approval revocations and higher education provider approvals will ensure that eligible students studying at Western Australian colleges will continue to be able to access HELP loans.
Background

Polytechnic West is a TAFE college established by the Western Australian government under the Vocational Education and training Act 1996 (WA) (WA VET Act). Polytechnic West was approved by the delegate of the Minister as a higher education provider under HESA on 12 October 2006 (see Higher Education Provider Approval No. 17 of 2006; Federal Register of Legislation No. F2006L03367). That approval enabled eligible students of Polytechnic West to access HELP loans under HESA.

On 24 February 2016, the Western Australian government announced that, pursuant to that government’s Training Sector Reform Project, the eleven colleges then established under the WA VET Act would be reduced to five. The campuses of Polytechnic West were, in future, to be administered by a new college established under the WA VET Act called South Metropolitan TAFE.

On 18 February 2016, the Western Australian Minister for Training and Workforce Development made the Vocational Education and training (Colleges Closure and Establishment) Order 2016 under the WA VET Act, which had the effect of closing Polytechnic West and ten other colleges, and establishing five new colleges in their place, with effect from 11 April 2016.

On 7 April 2016, Polytechnic West requested in writing that its approval as a higher education provider under HESA be revoked.

Commencement

The Revocation takes effect on 11 April 2016 which is the date that Polytechnic West was closed by the Vocational Education and Training (Colleges Closure and Establishment) Order 2016 under the WA VET Act.

Consultation

The Department of Education and Training consulted with the Western Australian Department of Training and Workforce Development in relation to the Revocation and the related higher education provider approval revocations and higher education provider approvals.

As the Revocation is the result of a voluntary request by Polytechnic West itself for revocation of its approval as a higher education provider under HESA, and the arrangements for approval of new TAFE colleges will ensure that no student of Polytechnic West will be affected by the Revocation, no further consultation was considered necessary.
Statement of Compatibility with Human Rights

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


The Higher Education Support (Polytechnic West) Higher Education Provider Approval Revocation 2016 (the Revocation) 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 Revocation is made by the Minister under subsection 22-40(1) of the Higher Education Support Act 2003 (HESA). Under subsection 22-40(1) of HESA, the Minister may revoke a body’s approval as a higher education provider if the body requests, in writing, the Minister to do so. On 7 April 2016, Polytechnic West requested the Minister to revoke its approval, with effect from 11 April 2016, as Polytechnic West was closing from that date.

Human rights implications

The Revocation engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. In particular, the Revocation has an effect on the provision of higher education by Polytechnic West as it revokes its approval as a higher education provider under HESA, removing the ability for eligible students of the Institute to access FEE-HELP loans.

However, students’ right to education is unaffected by the revocation, as higher education students enrolled at the closed Polytechnic West have been transferred to the newly created South Metropolitan TAFE, or to North Metropolitan TAFE.

These two new TAFE colleges were established on 11 April 2016 and will deliver much the same higher education courses as the closed TAFE, mainly in the same campus locations. The new TAFE colleges are approved as higher education providers from 28 April 2016. Eligible students will therefore continue to be able to access FEE-HELP loans under HESA for courses provided at the new TAFE colleges.

Conclusion

This Instrument is compatible with human rights because it does not affect the protection of human rights.