EXPLANATORY STATEMENT

Issued by the Authority of the Delegate for the Minister for Education and Training

Higher Education Support Act 2003

Higher Education Support (ACN 007 152 561 Pty Ltd) VET Provider Approval Revocation 2017

Authority

The Higher Education Support Act 2003 (the Act) provides the Commonwealth with powers to give financial support for higher education and certain vocational education and training (VET) through grants and other payments to providers, and through financial assistance to students (usually in the form of loans).

Schedule 1A to the Act provides for loans, called VET FEE-HELP assistance, to be made available to students enrolled in certain VET courses. A body has to be approved by the Minister as a VET provider before its students can receive VET FEE-HELP assistance.

Subclause 39(1) of Schedule 1A to the Act requires the Minister to revoke the approval of a body as a VET provider if the body requests in writing that the Minister revoke its approval.

Subclause 39(2A) of Schedule 1A to the Act provides that, after the revocation, the body will continue to be subject to a number of provisions in the Act as if the body were still approved as a VET provider. The provisions in Schedule 1A to the Act that will continue to apply are clauses 45E and 46B of Schedule 1A to the Act.

Subclause 39(3) of Schedule 1A to the Act requires the Minister to notify the body of the revocation in writing at least 14 days before the day on which the revocation is to take effect.

Subclause 39(4) of Schedule 1A to the Act provides that a notice of revocation under subclause 39(3) is a legislative instrument for the purposes of the Legislation Act 2003.

Subclause 39(5) of Schedule 1A to the Act provides that the revocation has effect on the day requested by the body unless another day is specified in the notice of revocation.

Under paragraph 238-5(1)(b) of the Act, the Minister has delegated the Minister’s powers under clause 39 of Schedule 1A to the Act to an SES Employee Band 1 with responsibility for the administration of the VET FEE-HELP scheme.

Purpose

The purpose of this legislative instrument (the Instrument) is

(a) to revoke the approval of ACN 007 152 561 Pty Ltd (formerly known as Republica Education Pty Ltd and as Grenadi School of Design Pty Ltd) (ACN: 007 152 561) as a VET provider; and

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(b) to revoke the legislative instrument **Higher Education Support Act 2003 - VET Provider Approval (No. 12 of 2010)** (F2010L02775).

**Background**

On 18 October 2010 the Minister’s delegate approved Grenadi School of Design Pty Ltd as a VET provider pursuant to the Higher Education Support Act 2003 and the instrument **Higher Education Support Act 2003 - VET Provider Approval (No. 12 of 2010)** was registered on the Federal Register of Legislation on 21 October 2010 (F2010L02775).

Grenadi School of Design Pty Ltd later changed its name to Republica Education Pty Ltd. Subsequently, Republica Education Pty Ltd changed its name to ACN 007 152 561 Pty Ltd (which is the current name of the company).

On 16 March 2017 ACN 007 152 561 Pty Ltd wrote to the Minister to request that its approval as a VET provider be revoked under clause 39 of Schedule 1A to the Act with effect from the earliest date possible. While subclause 39(2) of Schedule 1A requires the VET provider to give a request to the Minister under subclause 39(1) at least 30 days before the revocation is requested to have effect, the department considers that this is a requirement imposed on the VET provider for the benefit of the Minister, and where both the department and the Minister agree that the revocation will come into effect as early as possible, it is open to the Minister to determine that the revocation will come into effect prior to the expiry of the relevant 30 days (subject to the requirements of subclause 39(3) of Schedule 1A to the Act).

In this instance, ACN 007 152 561 Pty Ltd stated in their request for revocation of approval as a VET provider that it is happy for the revocation to come into effect as soon as possible.

This Instrument is a notice of revocation given under subclause 39(3) of Schedule 1A to the Act.

Consistent with the requirements of subclause 39(5) of Schedule 1A to the Act, the revocation takes effect on the day that is specified in the Instrument.

**Consultation**

Consultation was not undertaken and was not considered necessary as the revocation of ACN 007 152 561 Pty Ltd’s approval as a VET provider is for the purposes of ACN 007 152 561 Pty Ltd’s ability to offer VET FEE-HELP assistance to students, and ACN 007 152 561 Pty Ltd is the only body affected by the Instrument.

The Instrument is a legislative instrument for the purposes of the **Legislation Act 2003** (subclause 39(4) of Schedule 1A to the Act).

The Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the **Human Rights (Parliamentary Scrutiny) Act 2011**. A full statement of compatibility is set out in the Attachment.
Details of the *Higher Education Support (ACN 007 152 561 Pty Ltd) VET Provider Approval Revocation 2017*

**Section 1 - Name**

This section provides that the name of the Instrument is the *Higher Education Support (ACN 007 152 561 Pty Ltd) VET Provider Approval Revocation 2017* (the Instrument).

**Section 2 - Commencement**

This section provides that the Instrument commences on 31 March 2017.

**Section 3 - Authority**

This section provides that the authority for the Instrument is under clause 39 of Schedule 1A to the Act.

**Section 4 - Definitions**

This section provides definitions for terms used in the Instrument.

**Section 5 – Notice of Decision to Revoke Approval As A VET Provider**

This section makes it clear that ACN 007 152 561 Pty Ltd’s approval as a VET provider is revoked.

It also revokes the legislative instrument which notified its original approval.
Statement of Compatibility with Human Rights

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

Higher Education Support (ACN 007 152 561 Pty Ltd) VET Provider Approval
Revocation 2017

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 Instrument

Clause 39 of Schedule 1A to the Higher Education Support Act 2003 (the Act) provides that the Minister may, by legislative instrument, revoke a body’s approval as a VET provider if the body requests the Minister to revoke the approval.

The purpose of this Instrument is to revoke the approval of ACN 007 152 561 Pty Ltd (formerly known as Republica Education Pty Ltd and as Grenadi School of Design Pty Ltd) (ACN: 007 152 561) as a VET provider under subclause 39(1) of Schedule 1A to the Act.

Human rights implications

This Instrument engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights.

In particular, this Instrument may affect the provision of vocational education and training (VET) by ACN 007 152 561 Pty Ltd as it revokes its approval as a VET provider for the purposes of VET FEE-HELP under the Act which removes its ability to offer VET FEE-HELP assistance to certain students.

However, this instrument does not affect the capacity of ACN 007 152 561 Pty Ltd to continue to deliver education and training, it only removes its ability to offer VET FEE-HELP to students enrolled in its courses; existing and prospective students may obtain VET FEE-HELP training from another VET provider. Consequently, the right to education for affected students remains engaged.

Conclusion

This Instrument is compatible with human rights as it does not raise any human rights issues.

Brendan Morling
Delegate of the Minister