

EXPLANATORY STATEMENT

Notice of revocation of approval as a provider on request under subsection 22-40(1) of the *Higher Education Support Act 2003*

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

Subject: ***Higher Education Support Act 2003* (the Act)**
 Revocation of approval of a body as a higher education provider on request by the body
 under subsection 22-40(1) of the Act
 Notice of revocation of approval under subsection 22-40(3) of the Act

Authority

Subsection 22-40(1) of the *Higher Education Support Act 2003* (the Act) provides for the revocation of approval of a body as a higher education provider by the Minister if the body requests in writing that the Minister revoke its approval.

Subsection 22-40(3) of the Act specifies that the Minister must cause the body to be notified of the revocation in writing at least 14 days before the day on which the revocation is to take effect.

Under section 238-5 of the Act, the Minister has delegated his powers under subsections 22-40(1) and 22-40(3) of the Act to any person holding the position of General Manager of the Student Support Branch in the Tertiary Quality and Participation Division of the Department of Industry, Innovation, Science, Research and Tertiary Education.

Subsection 22-40(3A) of the Act stipulates that a notice of revocation under subsection 22-40(3) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Purpose

This legislative instrument revokes the approval of Nature Care College Pty Ltd a higher education provider under subsection 22-40(1) of the Act.

Background

Nature Care College Pty Ltd was approved by the Minister's delegate as a higher education provider on 28 June 2006 by Instrument of Approval No 6 of 2006 and registered on the Federal Register of Legislative Instruments on 6 July 2006, F2006L02251.

On 16 March 2012, Nature Care College Pty Ltd requested in writing that its approval as a higher education provider be revoked.

Commencement

In accordance with subsection 22-40(4) of the Act, the notice of revocation shall commence on 30 September 2012.

Consultation

Consultation was not undertaken and was not considered necessary because the Nature Care College Pty Ltd has voluntarily applied for revocation of its approval as a higher education provider and Nature Care College Pty Ltd is the only higher education provider affected by the instrument.

Statement of Compatibility with Human Rights

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

Notice of Revocation of approval as a provider on application

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 subsection 22-40(1) of the *Higher Education Support Act 2003* (the Act).

The purpose of the Instrument is to revoke the approval of Nature Care College Pty Ltd as a higher education provider for the purposes of the FEE-HELP Assistance Scheme under the Act.

An approved higher education provider must request in writing that their approval be revoked under subsection 22-40(1) 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 higher education by Nature Care College Pty Ltd by revoking its approval as a higher education provider for the purposes of the FEE-HELP Assistance Scheme under the Act, removing its ability to offer FEE-HELP assistance to its eligible students.

To the extent that the right to education is engaged, although this right is affected by the Instrument as the Instrument removes the approval of Nature Care College Pty Ltd as a higher education provider for the purposes of the FEE-HELP Assistance Scheme under the Act however the right is unaffected as it does not revoke Nature Care College Pty Ltd approval to deliver education and training to students.

Conclusion

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