

EXPLANATORY STATEMENT

Notice of revocation of approval as a provider on request by the provider
under section 22-40 of the *Higher Education Support Act 2003*

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

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 paragraph 238-5(1)(b) of the Act, the Minister has delegated his powers under subsections 22-40(1) and 22-40(3) of the Act to the position of General Manager of the Student Support Branch in the Tertiary Quality and Student Support 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

The instrument revokes the approval of the Minister for Employment, Higher Education and Skills (SA) as a higher education provider under the Act.

Background

The Minister for Employment, Higher Education and Skills (SA) was approved as a higher education provider on 8 June 2012 by Instrument of Approval No F2012L01212 registered on the Federal Register of Legislative Instruments (FRLI) on 15 June 2012.

On 4 October 2012, the Minister for Employment, Higher Education and Skills (SA) requested in writing that its approval as a higher education provider be revoked.

Commencement

The notice of revocation shall take effect on the day after it is registered on the FRLI.

Consultation

Consultation was not considered necessary because the Minister for Employment, Higher Education and Skills (SA) has voluntarily requested revocation of its approval as a higher education provider for the purposes of FEE-HELP. The Minister for Employment, Higher Education and Skills (SA) is the only higher education provider for the purposes of FEE-HELP 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

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(3A) of the Act. The purpose of the instrument is to revoke the approval of the Minister for Employment, Higher Education and Skills (SA) as a higher education provider for the purposes of FEE-HELP under the Act. Under subsection 22-40(1) of the Act a higher education provider must request in writing that their approval be revoked.

Human rights implications

The instrument engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. In particular, the instrument effects the provision of higher education by the Minister for Employment, Higher Education and Skills (SA) by revoking its approval as a higher education provider for the purposes of FEE-HELP under the Act, removing its ability to offer FEE-HELP assistance to its eligible students.

The right to education is engaged, as the instrument removes the approval of the Minister for Employment, Higher Education and Skills (SA) as a higher education provider for the purposes of FEE-HELP under the Act. However the right is unaffected as the revocation is for the purpose to effect a transfer of functions, and approval to deliver higher education to students is not affected.

Conclusion

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