

## **EXPLANATORY STATEMENT**

### *Approval and Notice of Approval under section 16-25 and subsection 16-50(1) of the Higher Education Support Act 2003*

Higher Education Provider Approval No. 3 of 2013

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

#### **Authority**

Section 16-25 of *Higher Education Support Act 2003* (the Act) provides for the approval of bodies as Higher Education Providers by the Minister. Paragraph 16-50(1)(a) of the Act provides that the Minister must decide an application for approval as a Higher Education Provider and under paragraph 16-50(1)(b) cause the applicant to be notified in writing whether or not the applicant is approved as a Higher Education Provider.

Under section 238-5 of the Act the Minister has delegated his powers under section 16-25 and subsection 16-50(1) of the Act to an APS employee responsible for administering the Act.

Subsection 16-55(1) of the Act stipulates that a notice of approval under paragraph 16-50(1)(b) of the Act is a legislative instrument.

#### **Purpose**

This instrument:

- a. approves Nan Tien Institute Limited (ACN: 139 338 819 ABN: 80 139 338 819) as a Higher Education Provider under section 16-25 of the Act;
- b. decides the application of Nan Tien Institute Limited for the purposes of paragraph 16-50(1)(a) of the Act; and
- c. gives Nan Tien Institute Limited notice of that approval for the purposes of paragraph 16-50(1)(b) of the Act.

#### **Commencement**

In accordance with subsection 16-55(2) of the Act and paragraph 12(1)(d) of the *Legislative Instruments Act 2003*, the notice and the decision to approve Nan Tien Institute Limited as a Higher Education 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 Nan Tien Institute Limited 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 section 16-25(1), paragraph 16-50(1)(b) and subsection 16-55(1) of the Act. The purpose of the Instrument is to approve Nan Tien Institute Limited as a Higher Education provider for the purposes of FEE-HELP assistance under the Act. For approval as a Higher Education Provider the Minister must be satisfied that the body meets the requirements of section 16-25 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 education by Nan Tien Institute Limited by approving it as a Higher Education provider for the purposes of FEE-HELP assistance under the Act, enabling it to offer FEE-HELP assistance to its eligible students.

The objective of the Instrument is to approve Nan Tien Institute Limited as a Higher Education provider under the Act and thereby enable eligible students of Nan Tien Institute Limited to access FEE-HELP assistance for courses of study.

To the extent that the right to education is engaged, this right is promoted by the Instrument as the Instrument approves Nan Tien Institute Limited as a Higher Education provider, thereby extending 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.