

## **EXPLANATORY STATEMENT**

### *Approval and Notice of Approval under subclauses 6(1A) and 11(1) of Schedule 1A to the Higher Education Support Act 2003*

VET Provider Approval No. 35 of 2013

#### **Issued by the authority of the Minister for Higher Education**

#### **Authority**

Subclause 6(1A) of Schedule 1A to the *Higher Education Support Act 2003* (the Act) provides for the approval of bodies as VET providers by the Minister. Paragraph 11(1)(a) of Schedule 1A to the Act provides that the Minister must decide an application for approval as a VET provider and under paragraph 11(1)(b) cause the applicant to be notified in writing whether or not the applicant is approved as a VET provider.

Under section 238-5 of the Act the Minister has delegated his powers under clauses 6 and 11 of Schedule 1A to the Act to an APS employee responsible for administering the Act.

Subclause 12(1) Schedule 1A to the Act stipulates that a notice of approval under paragraph 11(1)(b) of the Act is a legislative instrument.

#### **Purpose**

This Instrument:

- a. approves the State of Queensland, as represented by Southern Queensland Institute of TAFE, as a VET provider under subclause 6(1A) of Schedule 1A to the Act;
- b. decides the application of the State of Queensland as represented by Southern Queensland Institute of TAFE, for the purposes of paragraph 11(1)(a) of Schedule 1A to the Act; and
- c. gives the State of Queensland, as represented by Southern Queensland Institute of TAFE, notice of that approval for the purposes of paragraph 11(1)(b) of Schedule 1A to the Act.

#### **Background**

VET FEE-HELP is an income contingent loan scheme for the vocational education and training (VET) sector that is part of the Higher Education Loan Program (HELP). It is an extension of the higher education FEE-HELP arrangements.

VET FEE-HELP assists eligible students to pay for all or part of their VET tuition fees when studying one or more of the following eligible accredited VET courses of study: diploma; advanced diploma; graduate certificate; and graduate diploma.

In accordance with subclause 6(1A) of Schedule 1A to the Act, bodies of a kind established under the legislation listed at clause 2.2 of the *VET Guidelines* are able to apply to become approved as a VET

provider. In accordance with paragraph 2.2.1(c), Southern Queensland Institute of TAFE , has been established by the State of Queensland to provide vocational education and training under the *Vocational Education, Training and Employment Act 2000* (Qld).

### **Commencement**

In accordance with subclause 12(2) of Schedule 1A to the Act and paragraph 12(1)(d) of the *Legislative Instruments Act 2003*, the notice and the decision to approve the State of Queensland, as represented by Southern Queensland Institute of TAFE as a VET 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 the State of Queensland, as represented by Southern Queensland Institute of TAFE, 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 subclause 6(1A), paragraph 11(1)(b) and subclause 12(1) of Schedule 1A to the Act. The purpose of the Instrument is to approve the State of Queensland, as represented by Southern Queensland Institute of TAFE, as a VET provider for the purposes of the VET FEE-HELP Assistance Scheme under the Act. For approval as a VET provider the Minister must be satisfied that the body meets the requirements of subclause 6(1A) of Schedule 1A to 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 vocational education and training by the State of Queensland, as represented by Southern Queensland Institute of TAFE, by approving it as a VET provider for the purposes of the VET FEE-HELP Assistance Scheme under the Act, enabling it to offer VET FEE-HELP assistance to its eligible students.

The objective of the Instrument is to approve the State of Queensland, as represented by Southern Queensland Institute of TAFE as a VET provider under the Act and thereby enable eligible students of the State of Queensland, as represented by Southern Queensland Institute of TAFE to access VET FEE-HELP assistance for VET courses of study.

To the extent that the right to education is engaged, this right is promoted by the Instrument as the Instrument approves the State of Queensland, as represented by Southern Queensland Institute of TAFE as a VET provider, thereby extending VET 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.