

EXPLANATORY STATEMENT

Notice of revocation of approval as a provider on request by the provider under subclause 39(1) of Schedule 1A to the *Higher Education Support Act 2003*

Issued by the authority of the Minister for Education

Authority

Subclause 39(1) of Schedule 1A to the *Higher Education Support Act 2003* (the Act) provides for the revocation of approval of a body as a VET provider by the Minister if the body requests in writing that the Minister revoke its approval. Subclause 39(3) of Schedule 1A to 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 subclauses 39(1) and 39(3) of Schedule 1A to the Act, to the position of Branch Manager, Student Support Branch in the Quality and Student Support Group of the Department of Education.

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

Purpose

This legislative instrument (the Instrument) revokes the approval of the State of Queensland as represented by Tropical North Queensland Institute of TAFE as a VET provider under subclause 39(1) of Schedule 1A to the Act.

Background

The State of Queensland as represented by Tropical North Queensland Institute of TAFE was approved by the Minister's delegate as a VET provider on 23 September 2013 by Instrument of Approval No. 49 of 2013 and registered on the Federal Register of Legislative Instruments No F2013L01758 on the 1 October 2013.

On 22 May 2014, the State of Queensland as represented by Tropical North Queensland Institute of TAFE requested in writing that its approval as a VET provider be revoked.

Commencement

The revocation shall take effect on the later of 1 July 2014 or (if the Minister's approval of TAFE Queensland as a VET provider has, on or by that date, not been registered on the Federal Register of Legislative Instruments (FRLI) then the day after the date on which the Minister's approval of TAFE Queensland as a VET provider is registered on the FRLI.

Consultation

Consultation was not undertaken and was not considered necessary as the State of Queensland as represented by Tropical North Queensland Institute of TAFE has voluntarily requested revocation of its approval as a VET provider for the purposes of VET FEE-HELP, and the State of Queensland as represented by Tropical North Queensland Institute of TAFE is the only VET 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

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 subclause 39(1) of the Act. The purpose of the Instrument is to revoke the approval of the State of Queensland as represented by Tropical North Queensland Institute of TAFE as a VET provider for the purposes of VET FEE-HELP under the Act. Under subclause 39(1) of Schedule 1A to the Act an approved VET 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 has an effect on the provision of vocational education and training by the State of Queensland as represented by Tropical North Queensland Institute of TAFE as it revokes its approval as a VET provider for the purposes of VET FEE-HELP under the Act, removing its ability to offer VET FEE-HELP assistance to its eligible students.

The right to education is engaged, as the Instrument removes the approval of the State of Queensland as represented by Tropical North Queensland Institute of TAFE as a VET provider for the purposes of VET FEE-HELP under the Act. However the right is unaffected as it does not remove the State of Queensland as represented by Tropical North Queensland Institute of TAFE 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.

