

EXPLANATORY STATEMENT

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

VET Provider Approval No. 52 of 2014

Issued by the authority of the Minister for Education

Authority

Subclause 6(1) of Schedule 1A to the *Higher Education Support Act 2003* (the Act) provides for the approval of bodies as VET Providers by the Minister. Subclause 12A(1) of Schedule 1A to the Act provides for the Minister to impose conditions on a body's approval as a VET provider. 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) of 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 Virtu Design Institute Pty Limited (ACN: 154 273 757 ABN: 31 154 273 757) as a VET Provider under subclause 6(1) of Schedule 1A to the Act;
- b. imposes conditions on the approval of Virtu Design Institute Pty Limited as a VET provider under subclause 12A(1) of Schedule 1A to the Act;
- c. decides the application of Virtu Design Institute Pty Limited for the purposes of paragraph 11(1)(a) of Schedule 1A to the Act; and
- d. gives Virtu Design Institute Pty Limited 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(1) of Schedule 1A to the Act, bodies corporate that are also Registered Training Organisations (RTOs) are able to apply to become approved as a VET provider. If approved, a VET provider will be able to offer VET FEE-HELP assistance to its eligible students.

Conditions

The Minister has the power under clause 12A of Schedule 1A to the Act, to impose or vary conditions on a body's approval as a VET provider. Conditions imposed under that provision are set out in the Notice of Approval for Virtu Design Institute Pty Limited's approval as a VET provider.

Virtu Design Institute Pty Limited is required to comply with conditions 1 to 4 for a period of 24 months from the date of commencement of the approval as a VET provider and conditions 5 to 8 while Virtu Design Institute Pty Limited continues to be an approved VET provider.

In accordance with subclauses 33(1) and 36(1) of Schedule 1A to the Act, the Minister may suspend or revoke Virtu Design Institute Pty Limited's approval as a VET provider if Virtu Design Institute Pty Limited breaches any of the conditions imposed on Virtu Design Institute Pty Limited's approval as a VET provider.

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 Virtu Design Institute Pty Limited 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 Virtu Design Institute Pty 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 subclause 6(1), paragraph 11(1)(b) and subclause 12(1) of Schedule 1A to the Act. The purpose of the Instrument is to approve Virtu Design Institute Pty Limited 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(1) 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 Virtu Design Institute Pty Limited 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 Virtu Design Institute Pty Limited as a VET provider under the Act and thereby enable eligible students of Virtu Design Institute Pty Limited 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 Virtu Design Institute Pty Limited 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.