

EXPLANATORY STATEMENT

Approval and Notice of Approval under Sections 16-25 and 16-50 of the Higher Education Support Act 2003

Higher Education Provider Approval No 2 of 2021

Issued by the authority of the Minister or the Minister's Delegate for Education

Authority

Section 16-25 of the *Higher Education Support Act 2003* (the Act) provides for the approval of bodies as higher education providers by the Minister. Section 16-50 of the Act provides that the Minister must decide an application for approval as a higher education provider and under paragraph 16-50(1b) 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(1b) of the Act is a legislative instrument.

Purpose

This instrument:

- a. approves the Stanley International College Pty Ltd (ABN: 16 130 977 221, ACN: 130 977 221) as a higher education provider under section 16-25 of the Act;
- b. imposes conditions on the approval of the Stanley International College Pty Ltd as a higher education provider under subclause 16-60 of the Act;
- c. decides the application of the Stanley International College Pty Ltd for the purposes of paragraph 16-50(1a) of the Act; and
- d. gives the Stanley International College Pty Ltd notice of that approval for the purposes of paragraph 16-50(1b) of the Act.

Conditions

The Minister has the power under 16-60 of the Act, to impose or vary conditions on a body's approval as a higher education provider. Conditions imposed under that provision are set out in the notice of approval for the Stanley International College Pty Ltd as a higher education provider.

In accordance with subsections 22-15(1) and 22-30(1), the Minister may suspend or revoke the Stanley International College Pty Ltd's approval as a higher education provider if the Stanley International College Pty Ltd breaches any of the conditions imposed on the Stanley International College Pty Ltd's approval as a higher education provider.

Commencement

In accordance with subsection 16-55(2) of the Act and paragraph 12-1(a) of the *Legislative Instruments Act 2003*, the notice and the decision to approve the Stanley International College Pty Ltd as a higher education provider take effect on the day after the notice is registered on the Federal Register of Legislation.

Consultation

Consultation was not undertaken and was not considered necessary in this case because the notice confers a benefit on the Stanley International College Pty Ltd 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 or the Minister's Delegate under subclause 16-55 of the Act. The purpose of the Instrument is to approve the Stanley International College Pty Ltd as a higher education provider. For approval as a higher education provider the Minister must be satisfied that the body meets the requirements of subclause 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 higher education and training by the Stanley International College Pty Ltd by approving it as a higher education provider, enabling it to offer FEE-HELP assistance to its eligible students.

The objective of the Instrument is to approve the Stanley International College Pty Ltd as a higher education provider under the Act and thereby enable eligible students of the Stanley International College Pty Ltd 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 the Stanley International College Pty Ltd 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.