EXPLANATORY STATEMENT

Issued by the authority of a delegate of the Minister for Education

Higher Education Support Act 2003

Higher Education Provider Approval (No. 11 of 2012) Amendment Instrument 2024

# AUTHORITY

The *Higher Education Provider Approval (No. 11 of 2012) Amendment Instrument 2024* (the Amendment Instrument) is made under section 16-25 and paragraph 16-50(1)(b) of the *Higher Education Support Act 2003* (the Act). Section 16-25 of the Act provides that the Minister may approve a body corporate as a higher education provider if the body satisfies the requirements listed in that section, and paragraph 16-50(1)(b) provides that the Minister, in deciding an application for approval as a higher education provider, must cause the applicant to be notified in writing whether or not the applicant is approved as a higher education provider.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by‑laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The amendments to the *Higher Education Provider Approval No. 11 of 2012*(the Principal Instrument) made by the Amendment Instrument rely on this provision.

# PURPOSE AND OPERATION

The purpose of the Amendment Instrument is to amend the Principal Instrument to remove references to the Australian Institute of Professional Counsellors Pty Ltd (AIPC) (the approved higher education provider) being a trustee for the AIPC Trust. This is a technical amendment which makes it clear that AIPC is the legal entity that is approved as a higher education provider under the Act, and it is not relevant that AIPC may be a trustee of the AIPC Trust. This amendment does not affect the provision of higher education by AIPC.

# IMPACT ANALYSIS

The Office of Impact Analysis has advised that the Instrument is unlikely to have more than a minor impact as this amendment does not affect the provision of higher education by AIPC and therefore an Impact Analysis is not required for this Instrument (reference number OIA23-05466).

# COMMENCEMENT

The Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

# CONSULTATION

The department undertook consultation with AIPC and the Tertiary Education Quality and Standards Agency (TEQSA) to ensure they had no questions, comments or concerns with the proposal to amend the Principal Instrument. Both AIPC and TEQSA were supportive of the proposal. Public consultation was not undertaken or considered necessary as AIPC is the only body affected by the notice.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

Higher Education Provider Approval (No. 11 of 2012) Amendment Instrument 2024

The *Higher Education Provider Approval (No. 11 of 2012) Amendment Instrument 2024*(the Amendment 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 purpose of the Amendment Instrument is to amend the *Higher Education Provider Approval No. 11 of 2012* (the Principal Instrument) to remove references to the Australian Institute of Professional Counsellors Pty Ltd (AIPC) (the approved higher education provider) being a trustee for the AIPC Trust. This is a technical amendment which makes it clear that AIPC is the legal entity that is approved as a higher education provider under the *Higher Education Support Act 2003* (the Act), and it is not relevant that AIPC may be a trustee of the AIPC Trust. This amendment does not affect the provision of higher education by AIPC.

## Human rights implications

### The purpose of the Amendment Instrument is to make a minor technical amendment to make clear that AIPC is the legal entity that is approved as a higher education provider under the Act, and it is not relevant that AIPC may be a trustee of the AIPC Trust. This amendment does not affect the provision of higher education by AIPC.

### As the Amendment Instrument only makes a technical change to the approval of AIPC, it does not impact any human rights.

## Conclusion

This instrument is compatible with human rights as it does not raise any human rights issues.

**Delegate of the Minister for Education, Peta Brill**

HIGHER EDUCATION PROVIDER APPROVAL (NO. 11 OF 2012) AMENDMENT INSTRUMENT 2024

# EXPLANATION OF PROVISIONS

### **Section 1: Name**

1. This section specifies the name of the instrument as the *Higher Education Provider Approval (No. 11 of 2012) Amendment Instrument 2024* (the Amendment Instrument).

### **Section 2: Commencement**

1. This section provides that the Amendment Instrument commences on the day after it is registered on the Federal Register of Legislation.

### **Section 3: Authority**

1. This section provides that the Amendment Instrument is made under section 16-25 and paragraph 16-50(1)(b) of the *Higher Education Support Act 2003* (the Act).

### **Section 4: Schedules**

1. This is a technical provision that explains that each instrument that is specified in a Schedule to the Amendment Instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

**Schedule 1 – Amendments**

*Higher Education Provider Approval No. 11 of 2012*

Items 1 to 3

1. Item 1 to 3 amend paragraphs (a) to (c) to remove references to the Australian Institute of Professional Counsellors Pty Ltd (the approved higher education provider) being a trustee of the AIPC Trust.