

## **EXPLANATORY STATEMENT**

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

### ***Higher Education Support Act 2003***

### ***Higher Education Support Provider Variation of Approval (ACAP University College Pty Ltd) Instrument 2025***

#### **AUTHORITY**

Section 16-70 of the *Higher Education Support Act 2003* (the Act) provides that if a body corporate is approved as a higher education provider under section 16-25 and the body's name changes, the Minister may vary the approval to include the new name. Subsection 16-70(2) provides that the Minister must notify the body in writing of the variation, and subsection 16-70(3) provides that a notice of variation under subsection (2) is a legislative instrument.

In accordance with section 238-5 of the Act, the functions and powers of the Minister under subsection 16-70(2) have been delegated to certain persons, including APS employees who hold a position that is classified as a Senior Executive Band 1 under the *Public Service Classification Rules 2000*. These delegations are subject to the general direction issued by the Minister under subsection 238-5(2) of the Act. The general direction provides that an SES employee, who is not a Deputy Secretary, must not exercise the delegated power unless they have responsibility for, or involvement with, the administration of the program or other function for which it is appropriate to exercise the delegation.

#### **PURPOSE AND OPERATION**

The purpose of the *Higher Education Support Provider Variation of Approval (ACAP University College Pty Ltd) Instrument 2025* (the Instrument) is to provide written notice to ACAP University College Pty Ltd (ACAP), previously known as the Australian College of Applied Psychology Pty Ltd of the variation to its approval as a higher education provider under the Act, as required under subsection 16-70(2) of the Act.

The Australian College of Applied Psychology Pty Ltd was originally approved as a higher education provider under the Act on 27 August 2004 (the original approval can be found on page 121 of the Gazette notice published on 8 September 2004 see: <https://www.legislation.gov.au/gazettes/historic/2004>).

#### **IMPACT ANALYSIS**

The Office of Impact Analysis (OIA) has advised that the Instrument has no more than a minor impact and an Impact Analysis is not needed (OIA23-06233).

#### **COMMENCEMENT**

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

## **CONSULTATION**

The Department of Education undertook consultation with ACAP to ensure they had no questions, comments or concerns with the proposal to vary their approval to reflect their new name. ACAP was supportive of the proposal. Public consultation was not undertaken or considered necessary as ACAP 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 Variation of Approval (ACAP University College Pty Ltd) Instrument 2025*

The *Higher Education Provider Variation of Approval (ACAP University College Pty Ltd) Instrument 2025* (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 purpose of the Instrument is to provide written notice to ACAP University College Pty Ltd (ACAP), previously known as the Australian College of Applied Psychology Pty Ltd of the variation to its approval as a higher education provider under the Act, as required under subsection 16-70(2) of the Act.

The Australian College of Applied Psychology Pty Ltd was originally approved as a higher education provider under the Act on 27 August 2004 (the original approval can be found on page 121 of the Gazette notice published on 8 September 2004 see: <https://www.legislation.gov.au/gazettes/historic/2004>).

#### **Human rights implications**

The purpose of the Instrument is to notify ACAP of the variation of its approval as a higher education provider to reflect its new name. This variation does not affect the provision of higher education by ACAP or their obligations as a higher education provider under the Act.

As the Instrument only makes a technical variation to the approval of ACAP, 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, Larissa Hinds**

## HIGHER EDUCATION SUPPORT PROVIDER VARIATION OF APPROVAL (ACAP UNIVERSITY COLLEGE PTY LTD) INSTRUMENT 2025

### EXPLANATION OF PROVISIONS

#### **Section 1: Name**

1. This section specifies the name of the instrument as the *Higher Education Support Provider Variation of Approval (ACAP University College Pty Ltd) Instrument 2025* (the Instrument).

#### **Section 2: Commencement**

2. This section specifies that the Instrument commences on the day after it is registered on the Federal Register of Legislation.

#### **Section 3: Authority**

3. The section specifies that the Instrument is made under section 16-70 of the *Higher Education Support Act 2003* (the Act).

#### **Section 4: Definition**

4. This section defines the term **Act** for the purposes of the Instrument, which is defined as the *Higher Education Support Act 2003*.

#### **Section 5: Notice of variation of approval**

5. Section 5 provides that the approval of the higher education provider previously known as the Australian College of Applied Psychology Pty Ltd (ABN 94 057 495 299) is varied to reflect that the higher education provider is now named ACAP University College Pty Ltd.