

EXPLANATORY STATEMENT

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

Higher Education Support Act 2003

Higher Education Provider Approval (No. 6 of 2012) Amendment Instrument 2025

AUTHORITY

The *Higher Education Provider Approval (No. 6 of 2012) Amendment Instrument 2025* (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. 6 of 2012* (the Principal Instrument) made by the Amendment Instrument rely on this provision.

In accordance with subsection 238-5(1) of the Act, the functions and powers of the Minister under section 16-25 and subsection 16-50(1) have been delegated to certain persons, including SES employees in the Department of Education 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 the employee must not exercise the delegated power unless they have responsibility for, or involvement with, the administration of a program for which it is appropriate to exercise the delegation.

PURPOSE AND OPERATION

The purpose of the Amendment Instrument is to amend the Principal Instrument to remove references to Photography Holdings Pty Ltd (Photography Holdings) (the approved higher education provider) being a trustee for Photography Studies College (Melbourne) Unit Trust. This is a technical amendment which makes it clear that Photography Holdings is the legal entity that is approved as a higher education provider under the Act, and it is not relevant that Photography Holdings may be a trustee of the Photography Studies College

(Melbourne) Unit Trust. This amendment does not affect the provision of higher education by Photography Holdings.

COMMENCEMENT

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

CONSULTATION

The department undertook consultation with Photography Holdings to ensure they had no questions, comments or concerns with the proposal to amend the Principal Instrument. Photography Holdings was supportive of the proposal. Broader consultation was not undertaken or considered necessary as Photography Holdings 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. 6 of 2012) Amendment Instrument 2025

The *Higher Education Provider Approval (No. 6 of 2012) Amendment Instrument 2025* (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. 6 of 2012* (Principal Instrument) to remove references to Photography Holdings Pty Ltd (Photography Holdings) (the approved higher education provider) being a trustee for Photography Studies College (Melbourne) Unit Trust. This is a technical amendment which makes it clear that Photography Holdings 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 Photography Holdings may be a trustee of the Photography Studies College (Melbourne) Unit Trust. This amendment does not affect the provision of higher education by Photography Holdings.

Human rights implications

The purpose of the Amendment Instrument is to make a minor technical amendment to make clear that Photography Holdings is the legal entity that is approved as a higher education provider under the Act, and it is not relevant that Photography Holdings may be a trustee of the Photography Studies College (Melbourne) Unit Trust. This amendment does not affect the provision of higher education by Photography Holdings.

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

Conclusion

The Amendment 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 PROVIDER APPROVAL (NO. 6 OF 2012) AMENDMENT INSTRUMENT 2025

EXPLANATION OF PROVISIONS

Section 1: Name

1. This section specifies the name of the instrument as the *Higher Education Provider Approval (No. 6 of 2012) Amendment Instrument 2025* (the Amendment Instrument).

Section 2: Commencement

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

Section 3: Authority

3. 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*.

Section 4: Schedules

4. 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. 6 of 2012

Items 1 to 3

5. Items 1 to 3 amend paragraphs (a) to (c) of the *Higher Education Provider Approval No. 6 of 2012* to remove references to the Photography Holdings Pty Ltd (the approved higher education provider) being a trustee of the Photography Studies College (Melbourne) Unit Trust.