

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 — Australian University College of Divinity 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 subsection 238-5(1) of the Act, the functions and powers of the Minister under subsection 16-70(2) 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 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 — Australian University College of Divinity Ltd) Instrument 2025* (the Instrument) is to provide written notice to the Australian University College of Divinity Ltd (AUCD), previously known as the Sydney College of Divinity 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 Sydney College of Divinity Ltd was originally approved as a higher education provider under the Act on 26 November 2004 (the original approval can be found on page 104 of the Gazette notice published on 8 December 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 after it is registered on the Federal Register of Legislation.

CONSULTATION

The Department of Education undertook consultation with AUCD to ensure they had no questions, comments or concerns with the proposal to vary their approval to reflect their new name. AUCD was supportive of the proposal. Broader consultation was not undertaken or considered necessary as AUCD 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 Support (Provider Variation of Approval — Australian University College of Divinity Ltd) Instrument 2025

The *Higher Education Support (Provider Variation of Approval — Australian University College of Divinity 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 the Australian University College of Divinity Ltd (AUCD), previously known as the Sydney College of Divinity Ltd, of the variation to its approval as a higher education provider under the *Higher Education Support Act 2003* (the Act), as required under subsection 16-70(2) of the Act.

The Sydney College of Divinity Ltd was originally approved as a higher education provider under the Act on 26 November 2004 (the original approval can be found on page 104 of the Gazette notice published on 8 December 2004, see:

<https://www.legislation.gov.au/gazettes/historic/2004>).

Human rights implications

The purpose of the Instrument is to notify AUCD 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 AUCD or their obligations as a higher education provider under the Act.

As the Instrument only makes a technical variation to the approval of AUCD, 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 — AUSTRALIAN UNIVERSITY COLLEGE OF DIVINITY 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 — Australian University College of Divinity 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 Sydney College of Divinity Ltd (ABN 39 002 653 036) is varied to reflect that the higher education provider is now named Australian University College of Divinity Ltd.