

## **EXPLANATORY STATEMENT**

Notice of revocation of approval as a provider on request by the provider  
under subsection 22-40(1) the *Higher Education Support Act 2003*

**Issued by the authority of the Minister for Tertiary Education, Skills, Science and Research**

### **Authority**

Subsection 22-40(1) the *Higher Education Support Act 2003* (the Act) provides for the revocation of approval of a body as a higher education provider by the Minister if the body requests in writing that the Minister revoke its approval. Subsection 22-40(3) of the Act specifies that the Minister must cause the body to be notified of the revocation in writing at least 14 days before the day on which the revocation is to take effect.

Under paragraph 238-5(1)(b) of the Act, the Minister has delegated his powers under subsections 22-40(1) and 22-40(3) of the Act to the position of General Manager of the Student Support Branch in the Tertiary Quality and Student Support Division of the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education.

Subsection 22-40(3A) of the Act stipulates that a notice of revocation under subsection 22-40(3) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### **Purpose**

This legislative instrument (the Instrument) revokes the approval of the Australian Lutheran College as a higher education provider under the Act.

### **Background**

Australian Lutheran College was approved by the Minister's delegate as a higher education provider on 9 November 2004 by Instrument of Approval T41-2004 notified in the Special Gazette No S454 on 11 November 2004.

On 17 June 2013, Australian Lutheran College requested in writing that its approval as a higher education provider be revoked.

### **Commencement**

The notice of revocation shall commence on 31 July 2013.

### **Consultation**

Consultation was not undertaken and not considered necessary as Australian Lutheran College has voluntarily requested revocation of its approval for the purposes of FEE-HELP. Australian Lutheran College is the only higher education provider affected by the Instrument.

## **Statement of Compatibility with Human Rights**

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

### **Notice of Revocation of approval as a provider on application**

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 Instrument is made by the Minister under subsection 22-40(3A) of the Act. The purpose of the Instrument is to revoke the approval of Australian Lutheran College as a higher education provider for the purposes of FEE-HELP under the Act. Under subsection 22-40(1) of the Act an approved higher education provider must request in writing that their approval be revoked.

### **Human rights implications**

The Instrument engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. In particular, the Instrument has an effect on the provision of higher education by Australian Lutheran College as it revokes its approval as a higher education provider for the purposes of FEE-HELP under the Act, removing its ability to offer FEE-HELP assistance to its eligible students.

The right to education is engaged, as the Instrument removed the approval of Australian Lutheran College as a higher education provider for the purposes of FEE-HELP under the Act. However the right is unaffected as the revocation does not remove Australian Lutheran College's approval to deliver education and training to students.

### **Conclusion**

This Instrument is compatible with human rights because it does not affect the protection of human rights.