

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Delegate for the Minister for Education and Training

*Higher Education Support Act 2003*

*Higher Education Support (Unique International College Pty Ltd) VET Provider Approval Revocation 2017*

### **Authority**

The *Higher Education Support Act 2003* (**the Act**) provides the Commonwealth with powers to give financial support for higher education and certain vocational education and training (**VET**) through grants and other payments to providers, and through financial assistance to students (usually in the form of loans).

Schedule 1A to the Act provides for loans, called VET FEE-HELP assistance, to be made available to students enrolled in certain VET courses. A body has to be approved by the Minister as a VET provider before its students can receive VET FEE-HELP assistance.

Subclause 39(1) of Schedule 1A to the Act requires the Minister to revoke the approval of a body as a VET provider if the body requests in writing that the Minister revoke its approval.

Subclause 39(2A) of Schedule 1A to the Act provides that, after the revocation, the body will continue to be subject to a number of provisions in the Act and in the Higher Education Support (VET) Guideline 2015 (**Guidelines**) as if the body were still approved as a VET provider. For the purposes of sub-paragraph 39(2A)(b)(ii) of Schedule 1A to the Act, the provisions in the Act that will continue to apply are clauses 18, 19, 26, 27, 27A, 39, 39B, 43-56, 59-62, 69, 70, 91-97 of Schedule 1A to the Act. The provisions in the Guidelines that will continue to apply are sections 30, 41-80 and 88-93.

Subclause 39(3) of Schedule 1A to the Act requires the Minister to notify the body of the revocation in writing at least 14 days before the day on which the revocation is to take effect.

Subclause 39(4) of Schedule 1A to the Act provides that a notice of revocation under subclause 39(3) is a legislative instrument for the purposes of the *Legislation Act 2003*.

Subclause 39(5) of Schedule 1A to the Act provides that the revocation has effect on the day requested by the body unless another day is specified in the notice of revocation.

Under paragraph 238-5(1)(b) of the Act, the Minister has delegated the Minister's powers under clause 39 of Schedule 1A to the Act to an SES Employee Band 1 with responsibility for the administration of the VET FEE-HELP scheme.

### **Purpose**

The purpose of this legislative instrument (**the Instrument**) is:

- (a) to revoke the approval of Unique International College Pty Ltd ACN: 120 557 851 as a VET provider; and
- (b) to revoke the legislative instrument *Higher Education Support Act 2003 - VET Provider Approval No. 71 of 2013 (F2013L02040)*.

## **Background**

On 4 December 2013, Unique International College Pty Ltd was approved as a VET provider pursuant to clause 6 of Schedule 1A to the Act under VET Provider Approval No. 71 of 2013 (F2013L02040).

On 13 April 2017, Unique International College Pty Ltd wrote to the Minister to request that its approval as a VET provider be revoked under clause 39 of Schedule 1A to the Act with effect 30 days after the request was made.

This Instrument is a notice of revocation given under subclause 39(3) of Schedule 1A to the Act.

Consistent with the requirements of subclause 39(5) of Schedule 1A to the Act, the revocation takes effect on 15 May 2017.

## **Consultation**

Consultation was not undertaken and was not considered necessary as the revocation of Unique International College Pty Ltd's approval as a VET provider is for the purposes of Unique International College Pty Ltd's ability to offer VET FEE-HELP assistance to students, and Unique International College Pty Ltd is the only body affected by the Instrument.

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (subclause 39(4) of Schedule 1A to the Act).

The Instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in the [Attachment](#).

## Details of the *Higher Education Support (Unique International College Pty Ltd) VET Provider Approval Revocation 2017*

### Section 1 - Name

This section provides that the name of the Instrument is the *Higher Education Support (Unique International College Pty Ltd) VET Provider Approval Revocation 2017* (**the Instrument**).

### Section 2 - Commencement

This section provides that the Instrument commences on 15 May 2017.

### Section 3 - Authority

This section provides that the authority for the Instrument is under clause 39 of Schedule 1A to the Act.

### Section 4 - Definitions

This section provides definitions for terms used in the Instrument.

### Section 5 – Notice of Decision to Revoke Approval as a VET Provider

This section makes it clear that Unique International College Pty Ltd's approval as a VET provider is revoked.

It also revokes the legislative instrument which notified its original approval.

### Section 6 – Provisions of Act and VET Guidelines which continue to apply

This section makes it clear that in accordance with subclause 39(2A) of Schedule 1A to the Act, certain provisions of the Act and the Guidelines continue to apply to Unique International College Pty Ltd as if it were still approved as a VET provider.

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

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

### **Higher Education Support (Unique International College Pty Ltd) VET Provider Approval Revocation 2017**

This 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 Instrument**

Clause 39 of Schedule 1A to the *Higher Education Support Act 2003 (the Act)* provides that the Minister may, by legislative instrument, revoke a body's approval as a VET provider if the body requests the Minister to revoke the approval.

The purpose of this Instrument is to revoke the approval of Unique International College Pty Ltd ACN: 120 557 851 as a VET provider under subclause 39(1) of Schedule 1A to the Act.

#### **Human rights implications**

This Instrument engages the right to education, contained in Article 13 of the *International Covenant on Economic, Social, and Cultural Rights*.

In particular, this Instrument may affect the provision of vocational education and training (VET) by Unique International College Pty Ltd as it revokes its approval as a VET provider for the purposes of VET FEE-HELP under the Act which removes its ability to offer VET FEE-HELP assistance to certain students.

However, this instrument does not affect the capacity of Unique International College Pty Ltd to continue to deliver education and training, it only removes its ability to offer VET FEE-HELP to students enrolled in its courses; existing and prospective students may obtain VET FEE-HELP training from another VET provider. Consequently, the right to education for affected students remains engaged.

#### **Conclusion**

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

**Brendan Morling**  
**Delegate of the Minister**