

Higher Education Amendment Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Higher Education Act 2001* (**the Act**), as a consequence of changes to the *National Protocols for Higher Education Approval Processes* (**the National Protocols**) that have been approved by the Ministerial Council on Education, Employment, Training and Youth Affairs, so as:

- (a) to provide for the recognition of certain universities for a provisional period, and
- (b) to require the National Protocols to be taken into account in connection with the registration of education institutions and accreditation of courses under the Act, and
- (c) to remove the requirement for an education institution seeking registration as an overseas university or overseas higher education institution to obtain accreditation under the Act of at least one of its courses before it can be registered as such, and
- (d) to enable certain education institutions to be allowed to accredit their own courses, and
- (e) to make other provision of a minor, consequential or ancillary nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Higher Education Act 2001* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent. Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Recognition of universities

Schedule 1 [2] substitutes section 4 of the Act. The new section provides for education institutions to become Australian universities by inclusion in Part 1 or Part 2 of Schedule 1 to the Act. Part 1 will contain all universities that are currently listed in the Schedule. Other education institutions will only be capable of being included in Part 1 if they are established or recognised by an Act (rather than by or under an Act, as is presently the case). Part 2 will contain education institutions that, in accordance with the National Protocols, are to be recognised as universities for a provisional period. **Schedule 1 [11], [12], [14] and [17]** make consequential amendments to sections 19 and 25 and Schedule 1.

Application of National Protocols

Schedule 1 [4] inserts proposed subsection (5A) into section 5 of the Act. The new subsection will require decisions with respect to the registration of an education institution to have regard to the National Protocols.

Schedule 1 [7] inserts proposed subsection (3A) into section 7 of the Act. The new subsection will require decisions with respect to the accreditation of courses to have regard to the National Protocols.

Accreditation of overseas courses

Schedule 1 [3] amends section 5 (4) of the Act, which requires an education institution to obtain accreditation for at least one of its courses, so as to restrict the application of that subsection to institutions seeking registration as an Australian higher education institution. **Schedule 1 [8] and [9]** make consequential amendments to sections 14 and 15.

Self-accreditation of courses

Schedule 1 [5] amends section 7 (1) of the Act so as to enable an education institution to be authorised to accredit its own courses. Courses currently have to be accredited by the Director-General of the Department of Education and Training.

Schedule 1 [6] and [10] make consequential amendments to sections 7 and 18.

Miscellaneous amendments

Schedule 1 [1] updates the definitions of *Australian university*, *degree* and *National Protocols* in section 3 (1) of the Act.

Schedule 1 [13] corrects a typographical error in section 25 (1) (i) of the Act.

Schedule 1 [15] and [16] amend Schedule 1 to the Act so as to change Victoria University of Technology to Victoria University, and Northern Territory University to Charles Darwin University, to reflect recent changes of name.

Schedule 1 [18] amends clause 1 of Schedule 3 to the Act so as to enable savings and transitional regulations to be made in connection with the enactment of the proposed Act.