



Higher Education Amendment Bill 2008

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Extract from NSW Legislative Council Hansard and Papers Wednesday 9 April 2008.

Second Reading

The Hon. JOHN DELLA BOSCA (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [11.30 a.m.]: I move:

That this bill be now read a second time.

The bill amends the Higher Education Act 2001 in order to give effect to revised national protocols for higher education approval processes that have been agreed by all jurisdictions around Australia. The revised national protocols replace the protocols approved in 2000, which have been implemented through the current Act. The national protocols lay down the agreed national framework for regulating the approval and operation of higher education institutions, including universities. New South Wales is a leader in Australian higher education provision, both nationally and internationally. The Government is committed to maintaining a strong, contemporary regulatory framework in which the New South Wales higher education sector operates. This legislation continues this commitment.

The amendments to the Act broaden the range of educational choice and opportunities in the sector by providing for greater diversity in the types of higher education institution that can operate in New South Wales. At the same time, the amendments ensure a continuation of the strong regulatory framework established under the existing national protocols, with explicit requirements that maintain high standards for the establishment of higher education institutions and accreditation of courses. The existing protocols have allowed for three types of higher education institution to operate in Australia: Australian universities; overseas higher education institutions including universities; and non self-accrediting higher education institutions.

The revised protocols allow for the following additional types of institution: universities that will specialise in one or two areas only, which involves the use of a specialised name that cannot be shortened; university colleges that aspire to university status but which have five years to meet the full requirements to use the title "university"; and institutions with authority to accredit their own courses although they are not universities. These must have a strong record in higher education. The revised protocols also allow for overseas institutions to offer their own overseas qualifications in Australia subject to comprehensive assessment to ensure the quality of the institutions and their courses. In giving effect to these revised protocols, the amendments in the bill in no way detract from the importance and protection of the title "university" as an institution committed to the highest quality of teaching, research and scholarship.

Australian universities, including specialised universities and university colleges, must undertake research and offer awards, including research awards, up to doctorate level. The status of existing Australian universities, their own Acts, and the powers and responsibilities of their governing bodies will remain unchanged as a result of these amendments, including their ability to establish new campuses in Australia and overseas. Section 12 of the Higher Education Act, relating to the standards of offshore delivery by Australian universities, is not affected by these amendments. The bill updates three definitions in section 3 of the Act to take account of the recent changes to the national protocols and to degree awards included in the Australian Qualifications Framework. Section 4 of the Act is replaced with a new section that allows education institutions to become Australian universities by including them in schedule 1 to the Act, either in part 1 or part 2.

This amendment has no effect on existing Australian universities, and their status continues to be recognised by their inclusion in part 1 of schedule 1. This is the mechanism by which New South Wales recognises the official status of all universities that are set up under their own specific Act of any Australian Parliament. The revised protocols require that new universities will now generally need to operate for a period of up to five years with important conditions on their use of the title "university". Such new universities will be recognised under part 2 of schedule 1. Following the five year provisional period, it may then be considered appropriate for these universities to be recognised by an Act of Parliament and listed in part 1 of schedule 1 if they meet all the necessary requirements.

Institutions will be able to be established and operate as a university college if they meet rigorous initial requirements, and build towards meeting the criteria for full university status over five years. To gain access to the "university college" title initially, they must conduct research and deliver courses at research doctorate level in at least one broad field of study, and they must deliver programs up to masters coursework degree level in at least three broad fields of study. Appropriate institutions will also be able to operate as "specialised universities"

if they deliver research, masters and doctoral programs in one or two broad fields of study, and undertake research in these broad fields of study where research doctorates are offered. University colleges and specialised universities will be listed in part 2 of the schedule with the exact titles that they are approved to use. These titles are specific and underscore the conditions of their approval to operate for the provisional period.

Section 4 provides that the Minister may recommend to the Governor that, by proclamation, the name of an approved institution can be listed on part 2 of schedule 1 to the Act. The amended section 4 also provides for the name of the institution to be varied on the schedule, or removed from it, by the Governor on the Minister's recommendation. The effect of the amended section 4 is to provide a way of legislatively designating certain institutions as approved Australian universities that have demonstrated that they satisfy all the essential quality criteria to be recognised as a "university" of whatever type.

Section 5 of the Act relates to the registration of other types of Australian and overseas higher education institutions and overseas universities in New South Wales, and section 7 to the accreditation processes required for their courses. The amendments to these sections ensure that the director general has regard to the requirements of the national protocols in deciding what, if any, conditions to impose on an institution's registration and accreditation. These amendments also provide that overseas universities can be registered to operate in New South Wales and provide courses accredited in their home country as long as they can demonstrate clearly that they meet a comprehensive set of criteria detailed in the national protocols.

The amendments to section 7 further provide that the director general may authorise an institution to self-accredit courses in approved fields and qualification levels if that is considered appropriate. This would occur where the institution has a very strong track record in the provision of higher education courses and an excellent record in meeting previous accreditation requirements and conditions placed upon it. The bill makes other minor amendments as a consequence of these changes. All States and Territories have either amended their legislation to align with the revised national protocols, or are in the process of doing so. The amendments proposed to the Higher Education Act 2001, while minor in nature, are of significant strategic importance in ensuring that New South Wales maintains its position as a centre of quality higher education provision within a comprehensive national regulatory framework.

The New South Wales higher education sector has been consulted extensively on the changes to the national protocols. The consultation process took place in two stages—the first focused on the changes to the protocols, and the second on the development of national guidelines that underpin this framework. The guidelines, which have been endorsed by Australian education Ministers, support the consistent implementation of the protocols by detailing the requirements and evidence that applicants must demonstrate to gain approval. A report on the operation of the Higher Education Act, in accordance with section 29, was tabled in December 2007. This report foreshadowed the introduction of these amendments. The Government is committed to ensuring that the State's regulatory requirements are in line with a modern higher education environment and that rigorous standards of accountability and quality are met. The bill sets out the necessary amendments to achieve this. I commend the bill to the House.