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Quality Assurance for Higher Education – The Higher Education (General Provisions) Bill 2003 (Qld)

The Higher Education (General Provisions) Bill 2003 (Qld) seeks to provide a new framework for ensuring that all higher education providers in Queensland, regardless of status, are subject to uniform national quality assurance procedures and approval and accreditation criteria. The intention of the new legislation is to guarantee that Queensland students have access to high quality tertiary education and to enable action to be taken against providers who do not maintain the relevant standards.

The Bill brings Queensland's higher education system into a national quality assurance framework, the key element of which is a set of national protocols for higher education approval. The new approval processes will apply to the establishment and recognition of universities; the approval of the operation of overseas higher education bodies; the approval of interstate universities operating through an agent in Queensland; and the accreditation of courses offered by non-university providers.

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1 INTRODUCTION

The Higher Education (General Provisions) Bill 2003 (Qld) was introduced into the Queensland Parliament on 27 May 2003 by the Minister for Education, Hon Anna Bligh MP, to provide a new framework for ensuring that all higher education providers in Queensland, regardless of status, are subject to uniform national quality assurance procedures and approval and accreditation criteria. The intention of the new legislation is to guarantee that Queensland students have access to high quality tertiary education and to enable action to be taken against providers who do not maintain the relevant standards.¹

The Bill brings Queensland's higher education system into a national quality assurance framework, the key element of which is a set of *National Protocols* for higher education approval. The Protocols will ensure that the higher education sector maintains and enhances its quality of service provision in a climate of increasing pressures and competition among service providers. The new approval processes will apply to the establishment and recognition of universities; the approval of the operation of overseas higher education bodies; the approval of interstate universities operating through an agent in Queensland; and the accreditation of courses offered by non-university providers.

2 OVERVIEW OF QUEENSLAND HIGHER EDUCATION

Queensland has a wide range of universities and other institutions offering higher education programs leading to an award for the relevant level of study. The higher education sector contributes around \$1 billion annually to the Queensland economy as well as developing the State's social capital. There are 9 universities teaching around 140,000 students and employing over 14,000 people and another 13 private colleges and institutions offering higher education courses to around 4,500 students.² A small number of interstate universities also operate in Queensland.

¹ Hon AM Bligh MP, Minister for Education, Higher Education (General Provisions) Bill 2003 (Qld), Second Reading Speech, *Queensland Parliamentary Debates*, pp 2073-2074, p 2074.

² Queensland Department of Education, *Annual Report 2001-2002*, p 71.

3 THE HIGHER EDUCATION SECTOR ENVIRONMENT

The nature of higher education has changed significantly in the last few decades from traditional government funded universities to a diverse number of institutions and courses being offered by university and non-university providers. Even traditional universities have adapted to modern needs and technological advancements by virtual course delivery and the establishment of 'satellite' campuses, remote to the main university itself.³

Universities today operate in a challenging environment, nationally and globally. Changes have included –

- universities seeking commercial opportunities and facing pressure to satisfy industry needs;
- increasing competition for government spending between a growing number of demands;
- diminishing federal funding to universities, with the difference being made up by Higher Education Contribution Scheme payments by students, fees from international students and, in some instances, domestic students. Contribution is also made by commercialisation of research and intellectual property, and through consultancies;
- the higher education sector relying more heavily on business investment, meaning that they have more pressure to demonstrate service quality in a credible and transparent way;
- the student market becoming more dispersed across geographical boundaries;
- the growth of distance education, on-line delivery of courses, and off-shore delivery in addition to conventional on-campus education;
- the increasing interest by overseas students and institutions in pursuing education relationships with Australia accompanied by wanting assurance in the quality of Australia's universities which is demonstrated by the presence of rigorous, internationally recognised quality assurance processes;
- the need for government agencies involved in recognition and accreditation (such as the Queensland Department of Education's Higher Education Office) to develop high levels of expertise, strong legal bases for recognition processes, cross-jurisdictional processes, and a national quality assurance approach;

³ Commonwealth Government, Department of Education, Higher Education Division, Training and Youth Affairs, 'The Australian Higher Education Quality Assurance Framework', *Occasional Paper Series 2000*, p 1.

- the growing higher education sector and the proliferation of institutions and courses causing public concern about the quality of the service being provided and the response by many countries to establish quality assurance mechanisms.⁴

In the last two decades in higher education, there has been a tendency to mass education and higher retention rates. Many colleges have become universities; numbers of students in lectures have grown enormously; and progression rates seem to have improved. These trends could be accompanied by some perception that degree standards have fallen. It may be that the focus now placed by universities on better teaching and learning has improved the quality of students or just that courses are easier to pass. If the latter, there are implications for marketing degrees to Australian and overseas students who are becoming more critical of what they expect out of their higher education experience.⁵ Issues of higher education quality are common among many countries with employers, Government, and others concerned about the suitability of graduates to meet employers' needs and the community questioning whether it is getting value for its investment in higher education. This has led to some pressure on Governments to do more to control the work of higher education institutions and to ensure that those institutions become more accountable.⁶

The December 2002 Report, [*Changes in Academic Work*](#), prepared for advising the Commonwealth Minister for Education and Science, considered the ways in which academic life has changed in the last few decades and the implications of this; and the impact of an ageing academic workforce. The project explored and documented changes in what academics do and how they do it with a view to informing academic recruitment and training activities. The project team interviewed an appropriately structured (age, gender, level and discipline) sample of around 2000 academics and conducted focus groups. Almost half of the respondents surveyed in the study thought that the awarding of high grades had increased, and that this was a change for the worse. Over half believed that academic standards required for graduation had decreased and there were also reports of pressure against failing too many students. While around 41% thought that quality assurance was of some importance and 31% believed it very

⁴ 'The Australian Higher Education Quality Assurance Framework', pp 1-2; Queensland Department of Education, *Annual Report 2000-2001*, p 54.

⁵ D Anderson et al, *Quality assurance and Accreditation in Higher Education: an assessment of Australian and International practice*, Evaluations and Investigations Programme, Higher Education Division, DETYA, May 2000, http://www.dest.gov.au/archive/highered/eippubs/eip00_1/fullcopy00_1.pdf

⁶ G Harman & V L Meek, *Repositioning Quality Assurance and Accreditation in Australian Higher Education*, Evaluations and Investigations Programme, Higher Education Division, DETYA, May 2000, <http://www.dest.gov.au/highered/quality/links.htm>, p 7.

important, 41% thought it was a change for the worse. The Report noted, however, that the academics responding may have had negative experiences from the early 1990s' processes and were yet to experience the new review process commencing in 2002. Some were sceptical about the real value of the exercise and others felt that compliance merely added to their workload. Some felt it was overdone.⁷

The Report concluded that the widespread belief that standards are not as high as some decades ago has implications for universities and it is important that universities have the ability to check on whether there is a deterioration in standards.⁸ Some changes for the better were noted, including the greater emphasis on teaching quality and an improvement in teaching. Among the changes for the worse were the increasing demands by students, greater pressures to publish and bring in funding and the increasing reliance on casual staff.⁹

The importance of ensuring that Australia's higher education sector is of an equivalent or better standard than its international counterparts is of concern to all levels of government and can only be ensured through appropriate accreditation and quality assurance regimes.

'**Quality assurance**' is a relatively new concept and is difficult to agree on any one definition. However, it essentially refers to systematic management and assessment procedures adopted to monitor performance and achievements and to ensure achievement of specified quality or improved quality.¹⁰ Thus, institutions need to have appropriate and effective mechanisms for review, assessment and improvement of performance that includes external scrutiny mechanisms.

'**Accreditation**' is a process of assessment and review of institutions and courses to ensure that they meet or exceed certain specific criteria concerning a range of education matters and are of the same standard as higher education offered by existing providers. In Australia it can mean: a process of review or assessment conducted by a government agency to allow a Minister to recognise and approve an institution or course; a process of review carried out by a government registration body to enable graduates to practise in

⁷ D Anderson, R Johnson & L Saha, *Changes in Academic Work – Implications for universities of the changing age distribution and work roles of academic staff*, December 2002, Chapter 4. At http://www.dest.gov.au/highered/otherpub/academic_work.pdf

⁸ *Changes in Academic Work*, p 45.

⁹ *Changes in Academic Work*, p 107.

¹⁰ G Harman & VL Meek, p 11.

the particular jurisdiction; or a process of assessment and recognition carried out by professional associations.¹¹

Universities are generally ‘self-accrediting’ but other non-university providers of higher education and overseas institutions must obtain State Government accreditation (the Queensland Minister for Education being the relevant accrediting authority in Queensland) in order to operate. The process of accreditation tends to involve a review by a panel of academics and outside experts who consider and evaluate a proposed or existing course. The aim is to instil confidence in the community about the quality of Queensland higher education.¹²

4 RECENT ISSUES CONCERNING QUALITY ASSURANCE AND STANDARDS

Issues about ‘fake degrees’ have emerged in recent years. A number of academic transcripts for accredited universities have been offered for sale, usually on the Internet, without the recipient needing to undertake any examination or assessment. In many cases, this is not a problem if they are provided clearly for novelty purposes and contain an obvious disclaimer to that effect. Otherwise Governments and universities can refer matters about selling fake degrees to the Australian Competition and Consumer Commission or to the police.¹³

An emerging problem of note is that of bogus providers who sell degrees for little if any study, again usually over the Internet. Often it is difficult for Australian law enforcement bodies to ascertain the location of these providers and, if the providers are overseas, law enforcement agencies are limited in their ability to take action.

Another problem is that some unrecognised or unaccredited Australian institutions provide courses and awards in overseas countries.¹⁴

The Commonwealth [Department of Education, Science and Training \(DEST\)](#) website provides a real example of a recent problem involving an unrecognised institution.

¹¹ G Harman & VL Meek, pp 14ff.

¹² Queensland Department of Education, Office of Higher Education (OHE), ‘Accreditation’, at <http://education.qld.gov.au/strategic/accreditation/university/general-info.html>

¹³ Commonwealth, Department of Education, Science and Training (DEST), ‘Fake Degrees and Unaccredited Higher Education Providers’, <http://www.dest.gov.au/highered/alert/default.htm>

¹⁴ DEST, ‘Fake Degrees and Unaccredited Higher Education Providers’.

Between 1998 and December 2002, 'Greenwich University' operated on Norfolk Island as a private university. Because this University was not recognised by Australian governments nor listed on the Australian Qualifications Framework (AQF) register,¹⁵ the Commonwealth Government could not vouch for the quality of its degree awards. It was, however, on one occasion audited by the Commonwealth which reported that its standards, quality assurance mechanisms and academic leadership did not meet Australian universities' expected standards. It has not since done anything to show that it meets relevant standards or to seek accreditation. While Norfolk Island legislation authorises Greenwich University to award degrees, this does not mean that those awards are recognised by the Commonwealth Government. It is also a problem for 'graduates' if an employer does not recognise the degree because the University is not accredited, and this has occurred on some occasions to date.¹⁶

The public, Government, and universities have become concerned by some incidents involving private higher education providers that have received media attention. Those include the Greenwich University. In addition, two institutions in South Australia secured approval to use the name 'university' in its title.

Conversely, and highlighting the need for a uniform national approach to accreditation and quality assurance, is that a number of private higher education institutions have complained that the accreditation process is skewed towards public universities and that the process is not sufficiently flexible to accommodate emerging disciplines.¹⁷

Australia's quality assurance framework seeks to protect standards and quality in the higher education sector. The *National Protocols* provide the basis for uniform accreditation and approval of institutions across Australia.

To ensure that an institution or university is approved to offer a degree or other award, the AQF register should be checked. Universities are usually set up by legislation then become self-accrediting while other institutions tend to be accredited to offer certain courses and give out awards and are subject to monitoring by government authorities. If the body is not listed on the AQF register, it is not recognised by Commonwealth, State or Territory Governments.¹⁸

¹⁵ The AQF's role will be discussed below: see Part 5.5 of this Research Brief.

¹⁶ DEST, 'Alert on Greenwich University', downloaded from <http://www.dest.gov.au/highered/quality/greenwich.htm>

¹⁷ G Harman & V L Meek, p 61.

¹⁸ For more information about the AQF register, see <http://www.aqf.edu.au/register.htm>

5 THE AUSTRALIAN HIGHER EDUCATION QUALITY ASSURANCE FRAMEWORK

During the late 1970s universities engaged in a degree of self-monitoring of performance and standards. In the 1980s the Commonwealth Government began to focus on quality assurance issues for the higher education sector in order to improve quality and efficiency, including some discipline reviews to determine standards. Rapid growth of higher education institutions and structural changes were a feature of the late 1980s and early 1990s, triggering action by the Government to assure the public that high educational standards were being maintained and improved.

In the late 1980s, the Australian Vice-Chancellors' Committee published a code of practice for monitoring academic quality and standards in order to address its concerns about variations in honours grades across different subjects. It also established Academic Standards Panels concerned with assessment of quality of departments teaching in a particular discipline or field. It was considered that although the focus was on honours level, what occurred at that level had an impact on other levels in terms of intellectual standards. The Panels were thorough, their reviews included assessment of samples of students' scripts, and their reports influenced internal university practices and assisted in the understanding of standards.¹⁹

One of the first steps by the Government in responding to the growing awareness of the need for standards and accountability of the higher education sector was the 1991 *Higher Education: Quality and Diversity in the 1990s* Commonwealth Government policy statement. It sought to introduce measures to enhance quality of higher education which included additional funding to those universities able to demonstrate a high level of quality assurance in their missions and goals.²⁰

An advisory body, the Committee for Quality Assurance in Higher Education, was set up in November 1992 and operated until 1995. It was charged with conducting audits of institutional quality assurance processes and policies (three of which occurred from 1993-1995) and making recommendations about allocating funds related to quality. The aforementioned audits enabled institutions to see where there were problems in their internal assessment processes and make a number of changes for the future.²¹ The audits were initially outcomes focused but, as it found it difficult to find valid measures, it turned

¹⁹ *Changes in Academic Work*, p 41.

²⁰ 'The Australian Higher Education Quality Assurance Framework', p 2.

²¹ 'The Australian Higher Education Quality Assurance Framework', p 3.

its attention to determining ways in which quality in teaching, research and community service could be ensured.²²

In 1998, the Commonwealth Government introduced a requirement that, as part of the yearly funding negotiation process, universities had to provide annual Quality Assurance and Improvement Plans, containing goals and strategies to maintain and improve quality assurance in teaching, research, management and community service. These are published by the Department of Education, Science and Training (DEST), formerly the Department of Education, Training and Youth Affairs (DETYA).

Much of the current quality assurance framework had its genesis in two studies commissioned by the Commonwealth in mid 1999. *The [Quality Assurance and Accreditation in Higher Education: an assessment of Australian and International practice](#)* considered the existing accreditation and quality assurance framework and that operating in some overseas countries including Britain and the USA. It found that one of the major weaknesses in current quality assurance was the lack of a national independent auditing agency able to publicly vouch for the quality of Australian higher education and the absence in uniformity of approach and criteria across jurisdictions. A national agency would ensure that these institutions provide courses and awards of a sound standard and ensure that public confidence is maintained. It then proposed a model for Australian higher education.²³

The second report, *[Repositioning Quality Assurance and Accreditation in Australian Higher Education](#)* looked at improving the national approach to quality assurance, including a possible Australian model for quality assurance that would be more rigorous than the existing one.²⁴

The Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) comprises state, territory and federal Ministers of Education. MCEETYA was concerned that consistency was needed across jurisdictions in their approach to accreditation and quality assurance. In an April 1999 meeting, it was agreed that a committee of officials should consider the adoption of a uniform approach across all jurisdictions to higher education accreditation criteria; the means of independently evaluating accreditation procedures; and quality assurance processes adopted by each university. The committee's findings culminated in MCEETYA deciding, in March 2000,

²² *Changes in Academic Work*, p 41.

²³ D Anderson et al, *Quality assurance and Accreditation in Higher Education: an assessment of Australian and International practice*, http://www.dest.gov.au/archive/highered/eippubs/eip00_1/fullcopy00_1.pdf

²⁴ G Harman & VL Meek.

to establish an Australian Universities Quality Agency and to endorse the *National Protocols for Higher Education Approval Processes* (the *National Protocols*) as integral parts of the Australian Quality Assurance Framework (see below).

It is generally recognised that while Australian universities are of good quality and standing, there needs to be a means for independently examining the internal quality assurance processes of universities. This is particularly crucial if Australian institutions are to successfully compete in the global market against the many countries that have such processes, including independent auditing, in place.²⁵

The Australian Quality Assurance Framework (AQAF) involves the following –

- States and Territory Governments – responsible for accreditation authorities and processes based on the *National Protocols*;
- Commonwealth Government – providing funding and various measures to seek accountability by higher education institutions;
- Universities – responsible for academic standards and maintaining internal processes to ensure quality;
- AUQA – responsible for independent audits of accreditation processes and standards;
- Australian Qualifications Framework (AQF) – maintains a national public register of MCEETYA endorsed higher education providers and accreditation authorities.

5.1 THE COMMONWEALTH GOVERNMENT

The Commonwealth Government is responsible for the funding of the higher education sector through DEST pursuant to a triennial agreement under the *Higher Education Funding Act 1988*. Operational funding arrangements are underpinned by an accountability framework whereby publicly funded institutions have to submit an annual educational profile outlining a range of outcomes in areas; strategies to achieve such outcomes; information about student loads; and a financial report. The institution cannot use the funding for other than measures outlined in its profile. The educational profiles provide a means allowing DEST to oversee the performance of publicly funded institutions and determine resource needs.

As noted earlier, institutions must, as part of the profile, provide annual Quality Assurance and Improvement Plans for a range of areas – quality assurance, research, indigenous

²⁵ DETYA, 'Higher Education' *Report for the 2000 to 2002 Triennium*, p 54.

education and equity – which are published by DEST. The Plans outline goals and aims in research, teaching and learning, management and community services and what strategies are implemented to achieve them as well as the performance indicators used to assess their success or otherwise. DEST desires that the Plans include descriptions of the attributes graduates are expected to possess; data about graduate destinations (including employer views about quality of graduates); and feedback from students via results of a Course Experience Questionnaire. It is understood that the Plans enable the Commonwealth Government to inform the community about the quality of higher education; provide a means of public accountability in quality assurance for publicly funded universities; and help potential students make informed decisions about where to study.²⁶

The Government also assists institutions with a range of measures and incentives to facilitate performance improvement. For example, the Graduate Destination Survey, which measures the employment success of graduates, is supported and funded by the Commonwealth Government. This survey helps students compare universities. It also funds the undergraduate and postgraduate Course Experience Questionnaire, mentioned above, about student perceptions of their courses at their university in terms of matters such as teaching, standards, workload, assessment, skills and satisfaction. The Government also has other instruments to measure performance and other information and data enabling universities to consider their performance against other institutions and inform student choice.²⁷ In 2000, the Australian Universities Teaching Committee was set up to support improvements in quality in teaching and learning.

5.2 STATE AND TERRITORY GOVERNMENTS

Most states and territories have legislation relating to higher education concerning the establishment of universities; operation of interstate universities; approval of overseas universities; and accreditation of courses offered by non-university providers. Responsibilities in the quality assurance of higher education are now set out in the *National Protocols* endorsed by MCEETYA in March 2000. Processes for quality assurance of higher education arrangements are now consistent among governments.

²⁶ ‘The Australian Higher Education Quality Assurance Framework’, pp 11-12.

²⁷ ‘The Australian Higher Education Quality Assurance Framework’, pp 13-14.

5.2.1 Overview of Queensland's Regulatory Environment²⁸

Accreditation procedures are currently contained in the *Higher Education (General Provisions) Act 1993* (the Act) and supporting Higher Education (General Provisions) Regulation 1996. The Act also protects the title 'university' and imposes penalties for unauthorised conferral of awards.

The Queensland Department of Education's Office of Higher Education (OHE) assists the Minister for Education in performing her role relating to higher education in Queensland and advises about all aspects of higher education policy, regulation, and performance etc., including accreditation matters. The OHE administers funds that it receives for higher education and is also involved in activities that promote the international presence of Queensland's higher education institutions. Over the past year, it has been involved in responding to the Commonwealth Government's major national review of higher education.

5.3 UNIVERSITIES

Universities are established by or under federal, state, or territory legislation (eg *Queensland University of Technology Act 1998* (Qld)). Once established, they have reasonable autonomy in the accreditation of their programs (ie self-accrediting). They are responsible for setting academic standards and maintenance of their quality assurance processes.

As noted above, each university must produce an annual Quality Assurance and Improvement Plan which indicate the university's goals, the strategies to achieve them and outcomes.

Internal processes of each university seek to ensure quality of learning, teaching and assessment as well as in admission procedures. They provide ways in which new courses are developed and allow for the evaluation of course curriculum including student evaluations.²⁹ Relevant industry or professional bodies may be involved in such processes. For example, a Law Faculty may consult with the Solicitors' Admissions Board in designing a new undergraduate curriculum to ensure that it meets the standards and requirements of the legal profession. In addition, professional bodies may well perform program reviews in fields such as accountancy, engineering, dentistry and

²⁸ The information following is from the OHE's website at <http://education.qld.gov.au/office/higher-education>

²⁹ 'The Australian Higher Education Quality Assurance Framework', pp 5-6.

architecture while professional accreditation bodies might look at the course structure, standards and length to determine if it accords with industry expectations of graduates in terms of matters such as practical experience. Universities will then seek to match their curricula to those expectations so that their graduates will be well received and, hence, enhance the reputation of the institution from which they attained their qualification.

Individual internal processes also exist in universities for staff development and research opportunities. A large number of universities collaborate on matters such as research projects and benchmarking of course delivery standards.

Other means of quality assurance may involve the use of external examiners in assessing higher degrees and some honours degrees; and obtaining feedback from student surveys; and surveys of employers. Some institutions are involved in national and international networks and their benchmarking projects.

Universities have governing bodies or Councils (comprising mainly senior academics, external members, some government appointees and student representatives) that are accountable to the Government. The governing bodies are responsible for quality assurance in relation to 'satellite' campuses at some distance from the main campus. For its overseas campuses, the institution must maintain standards at least equivalent to those provided in Australia. In addition, if courses are delivered by providers not directly involved with the institution, the university must still ensure the standards of courses. Any problems about quality may result in a university being reviewed by the Government.³⁰

5.4 THE AUSTRALIAN UNIVERSITIES QUALITY AGENCY

The Australian Universities Quality Agency (AUQA) was established in March 2000, with MCEETYA endorsement, to provide independent audits of quality assurance arrangements. It conducts audits of self-accrediting institutions (mainly universities) and state and territory accreditation authorities (eg the Queensland OHE) on a 5-yearly basis. It reports on outcomes of the audits; reports on the criteria for accreditation of new universities and non-university higher education awards; and reports on relative standards and international standing of Australia's higher education system and quality assurance processes.

The academic audits of institutions focus on key areas of teaching, learning, research and management and the institution's quality assurance processes. They consider the institution's success in maintaining its standards in accordance with university education in

³⁰ 'The Australian Higher Education Quality Assurance Framework', p 6.

Australia. Thus, for example, AUQA may want to find out how a university sets its degree standards and how they determine how rigorous they are.³¹

Action in relation to negative institution audits is determined by the relevant governing body of the institution whereas, if in relation to accreditation authorities, the relevant government agency will be responsible. Ultimately, if the institution is uncooperative, it might be subject to government regulatory action or a funding cut.³²

In 2002, AUQA began its cycle of university quality assurance reviews. Each institutional review will take place against the university's own statement of objectives and a self assessment.

5.5 THE AUSTRALIAN QUALIFICATIONS FRAMEWORK

The Australian Qualifications Framework (AQF) was established by MCEETYA in 1995. Its role is to assist intending students, employers and education and training providers to participate and navigate the qualifications system. For example, a potential student can ascertain what is needed at a certain point in time in relation to career or learning needs. It is a system of 12 national qualifications issued in the secondary, vocational education and training, and higher education sectors - the Senior Secondary Certificate, (Certificates I-IV) Diploma, Bachelor Degree, Graduate Certificate, Graduate Diploma, Masters Degree and Doctoral Degree. AQF links these qualifications as a national quality assured system of educational recognition both nationally and internationally. It is intended to be flexible and streamlined and to encourage lifelong learning.³³

The AQF also has a public register of post-compulsory education providers and accreditation authorities endorsed by MCEETYA. All universities and institutions approved to offer degrees and awards are listed on the register.

³¹ *Changes in Academic Work*, p 42.

³² 'The Australian Higher Education Quality Assurance Framework', p 16.

³³ About the Australia Qualifications Framework, AQF website, <http://www.aqf.edu.au>

6 NATIONAL PROTOCOLS FOR HIGHER EDUCATION APPROVAL PROCESSES

The [*National Protocols for Higher Education Approval Processes*](#)³⁴ were endorsed by MCEETYA on 31 March 2000 for implementation by 30 June 2001, and represent the focal point of the new national quality assurance framework. All states and territories agreed to adopt the *National Protocols* as a means of protecting the reputation and standing of Australia's universities. There is a degree of similarity in the accreditation and quality assurance processes between jurisdictions but, until these Protocols, no nationally agreed common principles governing them.

The aim is to enable the application of consistent standards and criteria across all universities in Australia when governments are considering revising their laws and administrative processes dealing with –

- establishing or recognising universities (Protocol 1);
- approvals for overseas higher education institutions to operate (Protocol 2);
- investigation of the operation of interstate universities operating through agents in another jurisdiction (Protocol 3);
- the accreditation of courses proposed to be offered by non-university providers.

The *National Protocols* provide that states and territories need to ensure that there is adequate authority to monitor, require improvements, or withdraw accreditation or approval where the minimum standards are not met or the institution does not take action when audits find it wanting: see *National Protocols*, Part 1.

The Protocols set out the broad criteria (which should be supported by more elaborated criteria) that each jurisdiction will adopt to ensure consistency in the assessment of applications for approval or accreditation, as the case may be.

7 CURRENT ACCREDITATION ARRANGEMENTS IN QUEENSLAND

Queensland universities are established under state legislation and subject to federal and state oversight. Non-university providers must undergo accreditation under State established procedures. As noted earlier, the accreditation process is the responsibility of the Minister for Education under the *Higher Education (General Provisions) Act 1993* and the *Higher Education (General Provisions) Regulation 1996*.

³⁴ At http://www.dest.gov.au/highered/mceetya_cop.htm#contents

The OHE provides the executive support to the Minister in her responsibilities for the accreditation and approval for non-university providers seeking to offer higher education courses and awards and for the operation of overseas institutions in Queensland. As an accreditation agency of the State, it is subject to audit by AUQA as part of the new quality assurance framework. AUQA conducted an audit of OHE's processes and procedures and produced, in January 2002, a [Report of an Audit of the Accreditation Function of the Queensland Office of Higher Education](#).³⁵ It contained some commendations and recommendations about the OHE's functions in the context of the *National Protocols*.

7.1 REPORT OF AN AUDIT OF THE ACCREDITATION FUNCTION OF THE QUEENSLAND OFFICE OF HIGHER EDUCATION

A review of the Department of Education's higher education approval and accreditation processes began with a comprehensive audit by AUQA during 2001-2002. This review represented the first time that a Government accreditation agency had voluntarily undergone external scrutiny.³⁶

The conclusions of the January 2002 *Report of an Audit of the Accreditation Function of the Queensland Office of Higher Education* were that the OHE's accreditation processes were consistent with the national policy framework and had a robust legal and policy basis and were transparent to users. The Audit Panel was satisfied, from discussions with other states and from verifiable evidence, that the OHE performs a significant role nationally, contributing to national policy and practice. The OHE was found to be meeting objectives it sets for its accreditation function.³⁷

The OHE was commended on areas such as protecting the title 'university' through its publicity and advice work; its active attention to Protocol 2 of the *National Protocols* about the operation of overseas universities in Queensland; customer satisfaction; rigour of its approval processes; national leadership etc.. Some recommendations for improvement were made such as the need for accreditation panels to more closely consider learning outcomes as part of their evaluations; the need to ensure consistency with AQF descriptors; the need to develop a means of treating each diverse provider in the most appropriate manner in relation to the nature of the documentation they need to

³⁵ At <http://education.qld.gov.au/office/higher-education/pdfs/auditreport.pdf>

³⁶ Queensland Department of Education, *Annual Report 2001-2002*, p 74.

³⁷ AUQA, *Report of an Audit of the Accreditation Function of the Queensland Office of Higher Education*, January 2002, p 6.

provide; greater emphasis on refusing accreditation rather than a large raft of conditions being attached to approvals; more consistency among OHE panels in decision making; and the need to consider separating the function of recognition from accreditation etc..³⁸

An outcome of the audit process was the implementation of a quality system to ensure transparency, consistency and responsiveness.³⁹ The review of the existing Act and Regulation commenced in 2002 to implement the agreed *National Protocols* and to improve certain aspects of the current quality assurance system identified by the audit process.

8 HIGHER EDUCATION (GENERAL PROVISIONS) BILL 2003

The Higher Education (General Provisions) Bill 2003 (the Bill) repeals and replaces the *Higher Education (General Provisions) Act 1993 (Qld)* (the Act). It ensures that the accreditation and approval processes for institutions operating, or seeking to operate, in Queensland conform to the *National Protocols*.

8.1 OBJECTIVES

The primary policy objectives of the Bill are to uphold the standards of education delivered by higher education institutions operating in Queensland and to maintain public confidence in the higher education sector. The ways in which these purposes are sought to be achieved are by –

- putting in place a process for the establishment or recognition of a university in Queensland;
- providing for the approval of the operation of overseas higher education institutions in Queensland;
- providing for the accreditation of higher education courses proposed to be offered by non-university providers;
- providing for the approval of the operation of interstate universities, under an agency arrangement, in Queensland; and
- limiting the use of a title that includes the word ‘university’: **cl 5**.

³⁸ For the full recommendations, see *Report of an Audit of the Accreditation Function of the Queensland Office of Higher Education*, pp 8-9.

³⁹ Queensland Department of Education, *Annual Report 2001-2002*, p 74.

8.2 ESTABLISHMENT OF, OR RECOGNITION AS, A UNIVERSITY

Traditionally, most Australian universities have been established by state and territory legislation. The *National Protocols* propose that the establishment or recognition process should continue to be governed by statute to enable Parliamentary scrutiny. The process to be adopted for assessing applications is set out in Protocol 1. The procedure should be transparent and equitable so that ‘public’ and ‘private’ universities are treated in the same way.

8.2.1 Current Position

Section 5 of the Act states that the Minister is to make a decision about whether a university should be established or recognised as a university in Queensland by having regard to the 1996 Regulation. Part 3 of that Regulation sets out the process for establishment or recognition, as the case may be.

In essence, the higher education institution must give the Minister a written proposal about being recognised or established as a university. The proposal must include documented details about how the proposed university has the characteristics, and fulfils the role, of a university, as specified in s 3 of the Regulation. The OHE notes that the proposal must also now address comprehensively each criterion in Protocol 1 of the *National Protocols* (and the new Bill will expressly incorporate the need for the decision to be based on compliance with the Protocol).

The proposal is referred to a committee of academics and experts (typically three senior academic administrators, two of whom are from outside Queensland, of sufficient standing to have the confidence of the academic community and the public)⁴⁰ for consideration of whether the proposed university’s claims are substantiated. As well as looking at the proposal and other information provided by the institution, the committee interviews key representatives and staff and students of the institution and inspects the facilities. Queensland Treasury assesses the institution’s financial capacity. The committee then reports to the Minister, recommending whether or not the application should be granted,⁴¹ having regard to the criteria in the Regulation and the Protocols.

The report must include an analysis of the extent to which the proposed university has the characteristics, or fulfils the role, of a university.⁴²

⁴⁰ See OHE, ‘Accreditation’, on the OHE website.

⁴¹ Higher Education (General Provisions) Regulation 1996, s 9.

⁴² Higher Education (General Provisions) Regulation 1996, s 9(2)(a).

After receiving and considering the committee's report, the Minister must decide whether the proposed university may be established, or be recognised, as a university.⁴³ Conditions may be imposed.⁴⁴ Initial accreditation is for 5 years and then subject to review.

8.2.2 Proposed Changes

Part 2 of the Bill (cls 6-19) sets out the approval process where a governing body of a higher education institution wishes to establish, or be recognised as, a university in Queensland. It also provides for a review of the university's operation after its fifth year of operation, including whether it is complying with the criteria in Protocol 1 of the *National Protocols*. Note that Protocol 1 (in 2.21) indicates that students should be protected if a review of a new university after its first 5 years of operation finds that it is not meeting the required standards and its approval is cancelled.

Applications⁴⁵ must be referred to a committee, established by the Minister. The committee will comprise members with substantial knowledge and experience of academic affairs, or university management, or higher education design, development and delivery, or business management. This implements Protocol 1 (2.16) regarding the need for review by an expert panel. Protocol 1 also emphasised the need for significant representation from outside the place in which the application is made (note that a committee of like structure currently considers such applications for establishment or recognition).

The approval process is a transparent one. The committee will be required to give public notification of the application and invite submissions on it (allowing at least 14 days). The committee will then prepare a statement that provides a brief description of the application and make it publicly available. In considering the application, the committee must determine whether the institutions will comply with the relevant criteria mentioned in the *National Protocols* on establishment and recognition, under the legislation, as a university. The university will have to be able to demonstrate that it has –

⁴³ Higher Education (General Provisions) Regulation 1996, s 10.

⁴⁴ Higher Education (General Provisions) Regulation 1996, s 11(2).

⁴⁵ Although each part dealing with the relevant institutions seeking approval or accreditation sets out procedural requirements for applications, the Minister may, under cl 84, issue guidelines about how applicants should deal with issues so as to properly address matters relevant to the application. The guidelines are to be available for inspection.

- authorisation by law to award higher education qualifications across a range of fields and to set standards for those qualifications which are equivalent to Australian and international standards;
- teaching and learning that engage with advanced knowledge and inquiry;
- a culture of sustained scholarship extending from that which informs inquiry and basic teaching and learning, to the creation of new knowledge through research, and original creative endeavour;
- commitment of teachers, researchers, course designers and assessors to free inquiry and the systematic advancement of knowledge;
- governance, procedural rules, organisation, admission policies, financial arrangements and quality assurance processes, which are underpinned by the values and goals outlined above, and which are sufficient to ensure the integrity of the institution's academic programs; and
- sufficient financial and other resources to enable the institution's program to be delivered and sustained into the future (Protocol 1, 2.14-2.15).

The *National Protocols* indicate that the review process should involve an inspection of the facilities (if they yet exist) and an evaluation of the financial capacity of the institution to sustain appropriate delivery of its programs (see 2.16). As noted above, such inspections and evaluations occur under the present legislative arrangements.

The committee will then make a report to the Minister containing a recommendation about whether or not the application should be granted, and any conditions that should be imposed. The Minister will then make a decision, having regard to the committee's report, but is not bound by the recommendations in it. The Minister can grant the application only if satisfied that the institution will comply with the abovementioned *National Protocols*.

Any conditions imposed must be relevant and reasonable and might be requirements such as how teaching must be conducted or that relate to sponsorship by an established university.⁴⁶

Once approved, the university is then established under legislation or recognised under an Act as a university. Approved universities are listed on the AQF register of bodies that are authorised to issue qualifications.

⁴⁶ Higher Education (General Provisions) Bill 2003 (Qld), cl 18, *Explanatory Notes*, p 14.

Applications under the current Act that are in the pipeline when the new legislation commences will be taken (except for the fee provision) as having been made under the Bill.

8.3 OVERSEAS HIGHER EDUCATION INSTITUTIONS

An overseas higher education institution is one that is established and operates in another country and offers a course leading to a recognised higher education award by the entity responsible for recognising such awards in the foreign country.

The *National Protocols* note the community interest in being confident about a number of matters such as the standing of the institution in its own country; the comparability of its qualifications and learning outcomes with those in Australia; and the adequacy of delivery arrangements and oversight of that delivery (see 3.2).

8.3.1 Current Position

Queensland is one of the few states that currently have procedures in place about the operation of overseas universities in Queensland. The Queensland Act requires that the institution have bona fide accreditation as a provider of higher education in its country of origin by a competent authority for that purpose before it can be given approval to operate in Queensland. The university must comply with the Regulation. The Regulation states that approval is premised on the Minister's satisfaction about the university's legal status and standing in its own country; and the adequacy of its proposed arrangements for operation in Queensland, having regard to State and Commonwealth requirements.

The OHE website states that, to gain approval, the overseas university has to document the range and level of its proposed courses; demonstrate the adequacy of its staffing; and show its arrangements for monitoring its operations and for quality assurance. It must have arrangements in place to protect students if the university fails and document the nature of its expected student body.⁴⁷

The OHE notes that the new *National Protocols* now requires such universities to demonstrate compliance with Protocol 2 (see below). Note that those requirements are not, prior to the new Bill, enshrined in legislation. The AUQA Audit commended the OHE for its active attention to Protocol 2, particularly in ensuring that the overseas

⁴⁷ See OHE, 'Accreditation – Overseas higher education providers', on the OHE website.

qualifications are comparable with the Australian ones, even before the legislation is in place, but the OHE was encouraged to publicise its requirements more widely.⁴⁸

However, the Act does not provide any on-going process for ensuring that the course standards, delivery and quality assurance arrangements are as rigorous as for comparable Australian institutions or that delivery is subject to any oversight.

8.3.2 Proposed Provisions

Part 3 of the Bill (**cls 20-44**) relates to **overseas higher education institutions** that operate in Queensland, including those operating by electronic communication.

It will be an offence to operate such an institution in Queensland without Ministerial approval. In addition, it is an offence for an overseas higher education institution or any person to confer, or hold out as being authorised to confer, a higher education award unless approval to operate has been given.⁴⁹ The maximum penalty is currently \$1,400.⁵⁰ However, if immediately before the commencement of this new legislation, the institution held an approval under the ‘foreign universities’ provision of the Act, the approval continues for one year: **cl 94**.

The governing body of an overseas higher education institution will apply for the Minister’s approval to operate in Queensland. Applications must be accompanied by a proposed **operational plan** that details the operation of the institution by reference to criteria in Protocol 2 of the *National Protocols* (see below) and must include certain key details set out in **cl 21**. They are details of accreditation in the institution’s country of origin of the course proposed to be offered in Queensland; the governing body; proposed premises and its facilities resources; proposed course; mode of delivery; learning outcomes and course requirements; and proposed award to be conferred. Such a plan will receive the Minister’s endorsement if the institution is given approval to operate.

The approval decision will be based on whether or not the Minister is satisfied that the institution complies with the criteria in Protocol 2 of the *National Protocols*. The

⁴⁸ AUQA, *Report of an Audit of the Accreditation Function of the Queensland Office of Higher Education*, p 15.

⁴⁹ A ‘higher education award’ is defined in the Sch 2 Dictionary. As well as associate, bachelor, master or doctor, it includes another award for a course classified as higher education under the AQF.

⁵⁰ Note that proceedings for offences under the Bill will be summary proceedings: **Part 7**.

Protocols state that detailed operational guidelines should be developed. At a minimum, the institution will have to show that –

- it is a bona fide, legally established university;
- the courses offered have been properly accredited in its country of origin by an authority recognised as appropriate in Australia (if not, the institution may be required to undergo a full accreditation process);
- the courses are comparable in requirements and learning outcomes to courses at the same level in a similar field Australia;
- the arrangements for delivery, academic oversight, and quality assurance are comparable to those offered by accredited Australian providers; and
- appropriate financial and other arrangements are in place to ensure successful delivery (see 3.9).

The Minister may also consider how the institution proposes to operate in Queensland. If approval is granted (with or without conditions) it remains in force for the term stated in the approval (a maximum of 5 years). Currently, there is no time limit on the approval period.⁵¹ Approvals can be renewed through a process much the same as for an initial approval.

Each approved institution must ensure that a copy of its operational plan is freely available for public inspection. If the institution wishes to change any of the abovementioned key details, Ministerial approval (again based on compliance with the *National Protocols*) must be sought (unless exceptions outlined in **cl 41(2)** apply).

Note that the Minister can give the institution a ‘show cause’ notice about why the Minister should not take certain action against it (including cancelling its approval) on the basis of reasonable belief that any of the grounds in **cl 36** exist. Those grounds are non-compliance with the *National Protocols* criteria; contravention of a condition of approval; or there has been an unapproved change in a key detail in the operational plan. If, after considering any written representations by the institution, the Minister still believes the ground exists to warrant cancellation of the approval, the approval may be cancelled.

Applications for approval that have not been decided at the commencement of the new legislation are to be determined as if made under the Bill, apart from requiring the fee and the submission of the operational plan: **cl 95**.

⁵¹ Higher Education (General Provisions) Bill 2003 (Qld), *Explanatory Notes*, p 2.

8.4 NON-UNIVERSITY PROVIDERS

Most states and territories have legislation (all of which vary) about the status of awards offered by non-university providers of higher education (ie non-self accrediting institutions).⁵²

8.4.1 Current Position

Under the Queensland Act, the Minister is the accrediting authority for higher education courses proposed to be offered, or offered, by non-university providers. Under s 8 of the Act, a penalty is imposed if a non-university provider or person confers or holds out the ability to confer a higher education award without authority.

Section 10 of the Act enables the Minister to accredit a course if satisfied, following an assessment made in accordance with approved accreditation procedures and criteria, that the course and its mode of delivery are appropriate to the type of award offered. Thus, the quality of the course to be offered, and the capacity of the institution to provide it, are investigated in the context of the overall accreditation of the proposed course. The Minister may examine the provider's operations in accordance with s 12 matters, which includes financial viability, standards, delivery. The course must satisfy AQF guidelines and be comparable in standard and educational value to a course leading to a similar award at a university. It appears that, in practice, the Minister appoints an independent expert course assessment panel to examine the application and report to the Minister about whether it meets the accreditation criteria and has the capacity to deliver the course accordingly. The panel will consider documents, interview staff and students and conduct on-site visits.⁵³

The accreditation stays in force for as long as the Minister determines but it can be revoked or amended if reassessment of its accreditation indicates that it should not be offering the relevant award (and after looking at the s12 matters). Reaccreditation is based on similar procedures described above but the provider seeking such should also supply an evaluation report on the course and indicate how the proposed new course has developed from that being offered presently.

⁵² G Harman & VL Meek, pp 35-38.

⁵³ See OHE, 'Accreditation- private higher education providers', on the OHE website.

The *Repositioning Quality Assurance and Accreditation in Australian Higher Education* Report in May 2000 commented that, at that time, the Queensland procedures and criteria were possibly the most detailed of any jurisdiction.⁵⁴

MCEETYA approved protocols have existed for some time to allow for accreditation across jurisdictions for simultaneous offering of courses in 2 or more places.⁵⁵ There also, in practice, appears to be commonality between jurisdictions about the criteria and processes used for accreditation purposes. During 2001-2002, approvals for two non-university providers to operate in Queensland were assessed using the new nationally agreed concurrent application process.

The share of the higher education market attributed to non-university providers has increased significantly (by 160% since 1996). As at 30 June 2002, 13 institutions were accredited to deliver 72 courses in Queensland.⁵⁶ Some examples of non-university providers with existing accreditation for their course are the Australian College of Natural Medicine Pty Ltd's Bachelor of Health Science (Acupuncture), Bachelor of Health Science (Homeopathy), Bachelor of Health Science (Naturopathy); various courses of the Brisbane College of Theology; the Graduate Diploma in Chartered Accounting offered by the Institute of Chartered Accountants in Australia; and the Diploma of Business Studies offered by the Russo Institute of Technology.⁵⁷

8.4.2 Proposed Changes

Regulation of non-university providers will be by **Part 4** of the Bill (**cls 45-60**). An existing accreditation will continue to operate until it expires: **cl 96**.

It will be an offence for a non-university provider to offer a higher education course unless the course is accredited. Moreover, those bodies must not confer, or hold out that it has authority to confer, an award for the course unless it is accredited. A person must not engage in such holding out either. A penalty applies for each of these offences.

⁵⁴ G Harman & VL Meek, p 37.

⁵⁵ *National Protocols*, Part 4.3 (Background). See also the OHE's 'Procedures for Concurrent accreditation of Higher Education Courses to be Offered by Private Providers in two or More States and Territories of Australia'. Available on the OHE website.

⁵⁶ Queensland Department of Education, *Annual Report 2001-2002*, p 74.

⁵⁷ For the full range, see <http://education.qld.gov.au/strategic/accreditation/courses/higher-education/accredited-courses.html>

The lack of uniformity in award titles that are protected by each jurisdiction's legislation or processes has been the cause of some difficulty.⁵⁸ Protocol 3 of the *National Protocols* states that accreditation criteria and processes for accrediting non-university providers and the protection of the titles of certain awards should be governed by a legislative or policy framework. It also states that, when reviewing applications for accreditation, there must be consideration of the institution's capacity (including its financial capacity) to deliver the relevant course and there must be a means of verifying any claims made by the institution. The framework should also include mechanisms for investigating the accredited providers to ensure their continued financial capacity and that the governing body continues to be 'fit and proper' to operate the relevant programs.⁵⁹

Provision is made in **cl 46** of the Bill for a governing body of a non-university provider to apply to the Minister for accreditation of a higher education course it purposes to offer. In making his or her decision about whether to grant or refuse accreditation, the Minister may examine the provider's operation, or proposed operation. Accreditation cannot be given unless the Minister is satisfied, having regard to the criteria in Protocol 3 of the *National Protocols*, that that course and its method of delivery are appropriate to the type of award to which the course leads. The broad criteria to which the Minister must have regard are –

- the course design and content should satisfy AQF requirements for the award;
- the course should be comparable in requirements and learning outcomes to a course at the same level in a similar field at a university;
- the delivery arrangements, including matters of governance, facilities, staffing, and student services are appropriate to higher education and enable successful delivery of the course at the relevant level;
- the provider has appropriate financial and other arrangements to allow the successful delivery of the course, and is a fit and proper person to take responsibility for the course.

Accreditation of a course can be for any term up to 5 years (in accordance with Protocol 3). Any applications yet to be decided when the new legislation commences are treated as being made under the Bill (apart from the fee requirement).

Certain standard conditions attach to such accredited courses (see **cl 50**). Those are that the governing body will allow the Minister to enter and inspect the provider's operations;

⁵⁸ *National Protocols*, Part 4.4 (Background)

⁵⁹ *National Protocols*, Part 4.12ff (Process for assessing applications).

and that it will comply with all reasonable requests from the Minister about supplying information or records to enable the Minister to consider if the provider's course and its delivery are appropriate to the award being offered. Other reasonable and relevant conditions can be imposed by the Minister (eg that the course must be delivered on-site and offered externally; that particular staffing and resourcing arrangements must be in place): **cl 51**. Note that the Minister may change the accreditation conditions if there is a reasonable basis for doing so.

The provider must give the Minister course survey data for the course. The course survey data means (on a prescribed day) the number of full and part time students in the course; modes of course delivery; student gender breakdowns; number of overseas students; number of students who have reached a certain level of the course; the broad field of education to which the course belongs; and other prescribed details: **cl 59**. Annual reports must also be provided that contain information about the course and the way it is delivered so that the Minister can see if, having regard to the *National Protocols* criteria, accreditation should be continued: **cl 60**.⁶⁰

Cancellation of the accreditation may occur on the same grounds as those which may found the basis of the cancellation of an overseas higher education institution's approval (except that one such ground is failure to provide an annual report as opposed to the operational plan requirement that pertains to overseas bodies) and after following the same 'show cause' process.

8.5 INTERSTATE UNIVERSITIES

Many institutions have campuses at remote sites as well as, or instead of, traditional on-site campuses. Some institutions have contracted with other organisations, to deliver programs in other states or territories or in other countries. The *National Protocols* state, in Protocol 4, that if the university operates in a distant location and issues an award under its own name, the governing body of that university is responsible for quality assurance and AUQA audit. If the university enters into an arrangement with another institution in the distant location to deliver its program, the arrangement will be that of principal (the university) and agent (the education institution that delivers the course at the distant location). In the latter case, the principal carries the responsibility for the operations of the agent. Accountability of the university principal is to the Minister in the place where the course is delivered.

⁶⁰ The Minister may make guidelines about the type of information to be included in the annual report: **cl 84**.

8.5.1 Current Position

Presently, there is automatic recognition of the operation of interstate universities in Queensland because of the manner in which 'higher education' is defined. There appear to be no restrictions on interstate universities operating through an agent in Queensland.

8.5.2 Proposed Changes

Part 5 of the Bill (**cls 61-71**) will apply to the operation of an interstate university through an agent in Queensland. Ministerial approval to do so must be obtained or an offence is committed. Again, it will be an offence for such university to confer, or hold itself out as able to confer, an award unless the university is approved to offer the course nor must any other person hold the university out as having authority to confer the award.

Note that transitional arrangements under the Bill will enable existing interstate universities to have 6 months grace to apply for approval under the new provisions: **cl 99**. Existing interstate *non-university* providers may continue to offer a course in Queensland for one year from commencement of the legislation, during which period application must be made for accreditation of the course in order to be allowed to provide it when that year expires: **cl 98**.

Under the Bill, the governing body of the interstate university may apply for Ministerial approval to operate under an agency arrangement in Queensland. The application must be accompanied by details of such arrangement, the place where the delivery will occur, and a written undertaking that the governing body will ensure that the delivery of the course under such arrangement complies with the relevant *National Protocols* criteria.

The university must take responsibility for all aspects of the agent's operations in Queensland including ensuring quality and standards comparable to those on other campuses of the university; that teaching, resources are so comparable; that resources and facilities are adequate; and that there are appropriate measures in place to protect student welfare. The foregoing matters are subject to an AUQA audit. If the application by the interstate university strictly complies with the foregoing requirements, approval will be automatic.

A standard condition of approval will be that the Minister is allowed to enter the delivery place and inspect it to ensure that the course delivery complies with the *National Protocols* criteria. Other conditions can also be imposed where there is a reasonable basis for doing so. Where that occurs, the holder of the approval must have the chance to make submissions.

Grounds for cancellation are similar to those applying to other institutions mentioned above – non-compliance with the *National Protocols* criteria or contravention of a condition of the approval. The same ‘show cause’ process applies.

8.6 APPEALS

Section 16 of the Act currently sets out a procedure for appealing against decisions of the Minister to the District Court.

Part 6 of the Bill sets out the proposed new appeals process. Any person who has been given an information notice in relation to a decision of the Minister can appeal against the decision to the District Court within 28 days (or when the person becomes aware of the decision). The hearing is essentially a rehearing of the matter and not merely a judicial review because the Court can substitute another decision for that of the Minister which will take effect as being the Minister’s decision.⁶¹

The Minister’s decisions that may lead to an information notice being given, and the recipient of it having a right of appeal, are –

- refusing to grant approval to establish or recognise a university;
- refusing to grant approval, or to renew an approval, to operate a higher education institution in Queensland; or imposing conditions on the approval or renewal thereof;
- refusing to allow an overseas university to change a key detail of its operational plan;
- refusing to grant accreditation to a non-university provider to offer a higher education course; imposing conditions on the accreditation; or changing those conditions after the submission process has finished;
- refusing to grant approval to an interstate university to operate under an agency arrangement in Queensland; imposing conditions on such approval following a submission process;
- cancellation of any of the above approvals or accreditations after the ‘show cause’ process.

⁶¹ Note that the Part 10 transitional provisions preserve appeals that have commenced under the Act.

8.7 REGISTER

Note that **Part 8** will require the Minister to keep a register of approvals and accreditations in relation to the above institutions, containing specified details. It must be available for public inspection (for a fee) during ordinary office hours.

8.8 USE OF THE TERM ‘UNIVERSITY’

The Act currently protects the use of the name ‘university’ in s 7 by preventing a higher education institution, facility, school, college or other place from using the word in its title unless it is established or recognised as a university.

Business names legislation stops companies from carrying on a business as a university unless it has a registered business name and various restrictions on the use of the title ‘university’ apply. Protocol 1 (2.5-2.7) of the *National Protocols* states that all jurisdictions should protect the title ‘university’ under business names/associations legislation and the Commonwealth should protect the title in its Corporations Law. In addition, there should be provision made for the government body administering that legislation to consult with the Minister for Education (or the chief executive) before it decides whether or not to allow the use of the title so that the Minister (or the chief executive) can investigate the institution’s education credentials.

In addition, the Commonwealth *Trade Practices Act 1974* and state and territory *Fair Trading Acts* provide consumer protection by proscribing against misleading or deceptive conduct and information, which would include conduct and information relating to courses or accreditation, and enables action to be taken against an offending institutions by the ACCC or the relevant Fair Trading agency (in Queensland, this is the Office of Fair Trading).⁶²

The Bill will also, under **cl 82**, make it an offence to use a title that consists of, or includes, the word ‘university’ unless the institution, facility, school, college or other place delivering a course of education, is a university (ie established, recognised or approved in accordance with the legislative procedures). Nor must it be held out as being a university. However, it is acceptable for a place that does not deliver a course of education to use the word ‘university’ in its title, such as a bookshop to call itself the ‘University Bookshop’.⁶³ The provision accords with the tenor of Protocol 1 (2.9-2.12).

⁶² See Commonwealth, Minister for Education, Training and Youth Affairs, DETYA, ‘Higher Education’, *Report for the 2000 to 2002 Triennium*, March 2000, p p 49-50.

⁶³ See Higher Education (General Provisions) Bill 2003 (Qld), *Explanatory Notes*, p 34.

8.9 COURSES FOR OVERSEAS STUDENTS

A detailed discussion of the regulation of courses of study offered to overseas students studying in Australia is outside the scope of this Brief but a short overview is now provided.

The Commonwealth *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991* requires that all providers offering education and training services to overseas students to be accredited to provide certain courses and approved to provide them to overseas students by relevant state and territory authorities. They must also be registered on the Commonwealth Register of International Courses for Overseas Students (CRICOS).

Protocol 5 of the *National Protocols* covers the endorsement of courses for overseas students by the State in which the course is to be delivered, providing protection for such students who may not have the same remedies available to them as Australian students. If the course is to be offered by a university or other self-accrediting body, accreditation can be assumed but if it is offered in other circumstances such as through an agent, the endorsing authority must be satisfied that those circumstances are clear to students; the facilities and services are of an adequate standard; teaching staff are adequately qualified; quality assurance measures are in place; and students are properly protected.

If the course is offered by a non-university provider, then the criteria in Protocol 3 apply for accreditation of the course being offered.

Australia is a party to some international conventions and agreements concerning the recognition of higher education qualifications. There is a UNESCO Convention on the recognition of qualifications for European regions and the UNESCO Convention for the recognition of qualifications in Asia, and some others, all of which require Australia to provide means for recognition of overseas qualifications and detailed information about local institutions, qualifications and their standing.

The Queensland OHE works with universities and other government agencies to promote the higher education sector internationally through programs such as the Higher Education International Initiative which manages a range of promotional and marketing activities and represents Queensland's interests at the government level. The Queensland Higher Education and Training International has also been established to develop export opportunities for higher education services.⁶⁴ Queensland's share of the Australian market in international higher education is around 18%. The AUQA Audit Report noted

⁶⁴ Queensland Department of Education, *Annual Report 2001-2002*, p 74.

that Queensland's arrangements for the endorsement of courses for overseas students were compliant with Protocol 5.⁶⁵

⁶⁵ AUQA, *Report of an Audit of the Accreditation Function of the Queensland Office of Higher Education*, p 16.

APPENDIX A – MINISTERIAL MEDIA STATEMENT

Hon Anna Bligh MP, Minister for Education

28 May 2003

New Legislation Protects Integrity of Higher Education in Qld

Overseas and interstate higher education providers will have to meet rigorous new requirements to operate in Queensland under new legislation introduced into State Parliament today.

Education Minister Anna Bligh said the Higher Education (General Provisions) Bill 2003 established a new framework to guarantee the integrity of higher education provision in Queensland.

Ms Bligh said the legislation brought Queensland into line with national protocols agreed to by all State, Territory and Federal Education Ministers.

The national protocols were developed to protect the standing of Australian higher education institutions by identifying consistent criteria and standards for higher education approval processes across Australia.

"The Bill, which replaces the 1993 Act, will outlaw the operation in Queensland of "degree mills" or "degrees for sale" and other fraudulent operators which claim to offer higher education courses or be universities," she said.

"The legislation will preserve and enhance the reputation of Queensland's higher education sector."

Under the Bill the operations of all new universities will now be reviewed after the first five years of operation to ensure they are complying with the standards.

Interstate universities which operate through an agent will also have to comply fully with the national standards. If not, these arrangements will be open to investigation and if warranted their approval to operate in Queensland through the nominated agent may be revoked.

Foreign universities will now be required to undergo a rigorous approval process. They will have to satisfy criteria relating to delivery arrangements and comparability of courses to other Australian universities before they can operate in Queensland.

Non-university providers offering higher education courses will be required to report annually on their operations and courses they deliver.

The Bill also continues to protect the term "university" by prohibiting its use except by institutions that are recognised as universities under the Act and also protects the issuing of higher education qualifications.

Ms Bligh said the new legislation would better regulate the growing higher education market which has expanded significantly over the past decade.

"In 1993, when the existing Act was introduced, there were three private non-university providers operating in Queensland and no overseas institutions," she said.

"There are now 15 accredited private non-university providers and three overseas institutions with more than 4000 students.

"More and more students are choosing Queensland not only as a travel destination but also as a study destination. The Government established the Queensland Education and Training Export Board to boost the state's earnings in this vital area.

"The Government's strategy is to double Queensland education and training export earnings to \$1 billion in five years."

Ms Bligh said in the wake of such growth it was important that new legislation was developed to uphold the standards of education being delivered by higher education institutions across the state and to maintain public confidence in the quality of courses on offer.

"Higher education providers will be monitored or reviewed on a regular basis to ensure they are complying with the standards," she said

"If institutions approved under the Act are not up to scratch they face having their right to operate in Queensland cancelled."

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