



Research

Submission to the

**Senate Education, Employment and Workplace  
Relations Committees**

*on the*

***Tertiary Education Quality and Standards Agency Bill 2011***

and the

***Tertiary Education Quality and Standards Agency  
(Consequential Amendments and Transitional Provisions) Bill  
2011***

Presented by NUS President: Jesse Marshall ([pres@nus.asn.au](mailto:pres@nus.asn.au))

Prepared by NUS Research Co-ordinator: Graham Hastings ([research@nus.asn.au](mailto:research@nus.asn.au))

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NUS thanks the committee for this opportunity to present our views on the two TEQSA bills. Issues of quality assurance and enhancing the teaching and learning experience of students is a matter of great importance to NUS.

NUS welcomes several changes since an early draft of the legislation was made available to us in November 2010. These changes following sector consultation processes with DEEWR have led to:

- A provider's history, size and mission being taken into account when assessing risk;
- The removal of TEQSA's ability to impose sanctions and conditions without reference to natural justice or due process; and that such decisions are reviewable;
- The inclusion of the interests of students as a factor that the minister must have regard to in appointing the Higher Education Standards Panel members;
- The strengthening of the independence of the Higher Education Standards Panel from political interference by precluding any TEQSA commissioner from sitting on the Panel.

While being positive about much of the legislation we do have some concerns with the redrafted legislation.

### **Applications to self-accredit and applications to change to a different provider category.**

NUS shares AUQA's concerns about the use of the phrase "TEQSA must have regard to the Threshold Standard" in section 38 (dealing with applications to change provider category) and section 41 (dealing with applications to self-accredit).

By contrast in section 49 (on accreditation of course of study) the stronger phrase that the applicant must "meet" the Provider Course Accreditation Standards is used. There is no explanation in the explanatory memorandum why this weaker phrase is used in section 38 and 41.

### **Independence.**

While section 170(2) prevents a TEQSA commissioner from sitting on the Higher Education Standards Panel there remains possible scope for political interference from the Minister in that the Minister has the power to approve or not approve TEQSA's strategic plan (section 160(1)), variations from the strategic plan (section 161), TEQSA's operational plan (section 162(1)), and may give a direction to TEQSA if the Minister considers that the direction is necessary to protect the integrity of the higher education sector (section 136).

## **Self-Accreditation.**

NUS understands that the details about self accreditation powers of the different categories of higher education providers are contained in the Draft Provider Category Standards that are still in a separate consultation process.

Like many in the sector we are disappointed that the existing self-accrediting powers of universities (and the handful of other approved HEPs) are not explicitly enshrined in the TEQSA Bill.

The delineation between TEQSA and state government powers in circumstances where there is a conflict over self-accreditation powers of a university (ie under section 33) remains unclear.

## **Use of the Australian Qualifications Framework for Regulatory Purposes.**

Section (58-5) opens the door for the possible incorporation of the Australian Qualifications Framework indicators to be used as regulatory tools in the Provider Standards. For example it may end up being used for Provider Course Accreditation Standards where both self-accreditation and TEQSA regulation may simultaneously apply.

Once the Provider Standards take their final form there should a consultative process with the sector to determine whether the current AQF indicators are fit for their envisaged regulatory functions.

## **Inclusion of interests of university staff on Higher Education Standards Panel.**

NUS supports the NTEU recommendation that section (167) be amended so that it explicitly mentions university staff. We believe that a properly resourced representative who can bring the perspectives of the current teaching workforce to the deliberations of the Panel would be adding value to the decision-making.

## **Quality Enhancement**

Where quality comes up in the TEQSA bill it is couched in the framework of quality assurance, i.e.. ensuring that HEPs at least meet thresholds and standards. So long as they minimally comply to the letter of these standards and thresholds then the HEPs will remain registered and have accreditation (or self-accreditation) to deliver courses.

However, an important second component is quality enhancement such as identifying best quality practices and encouraging the spread of best practices more widely through the sector. AUQA and the Australian Learning and Teaching Council, the two bodies whose functions are being subsumed by TEQSA, have vast amount of work on quality enhancement.

The only mention of quality improvement in the TEQSA bill is in the functions of TEQSA (section 134(e)ii - collect, analyse, interpret and disseminate information on quality improvement) and section 134 (g) (to conduct training to improve the quality of higher education). While the listing of the quality enhancement in TEQSA's functions are welcome we do remain concerned that the almost exclusive focus of the legislation on compliance, risk and registration issues sends a signal that quality enhancement may end up as only a minor part of TEQSA's functions.

Students want TEQSA to provide both a robust quality assurance framework and also strong quality enhancement processes to improve our teaching and learning experiences.

Finally, the fact that the legislation is being considered before the five-part standards framework that underpins these bills has been completed is of concern. Three of these sets of standards have not yet even been released in draft form. These gaps in available information make it far more difficult to analyse the effectiveness of the legislation in achieving its aims and objectives, and to assess whether there are items that are currently in the standards that would be better suited to being in the legislation and vice versa.