



Higher Education Legislation Amendment (2007 Measures No. 1) Bill 2007

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Higher Education Legislation Amendment (2007 Measures No. 1) Bill 2007

Date introduced: 28 February 2007

House: House of Representatives

Portfolio: Education, Science and Training

Commencement: Provisions in Schedule 1 are dependant on State and Territory legislation and commence on Proclamation or within 12 months of Royal Assent. All other provisions commence on Royal Assent with the exception of some items in Schedule 3 which commence on 1 January 2008.

Purpose

The Bill will:

- amend the *Higher Education Support Act (2003)* (HESA) to provide funding to implement the Research Quality Framework (RQF);
- amend the HESA to implement the revised *National Protocols for Higher Education Approval Processes*;
- clarify requirements of the Higher Education Loan Programme (HELP) and arrangements for Commonwealth supported students;
- amend the HESA, the *Higher Education Funding Act 1988* (HEFA) and the *Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003* (TCA) to limit the time for students to claim entitlement to Commonwealth support; and
- make a range of minor technical amendments to HESA.

Financial implications

The Bill increases the overall appropriation by \$40.8 million for the period 1 July 2007 to 31 December 2010 to revise the maximum funding amounts in sections 41-45 of the HESA. The increased appropriation will support the implementation of the Research Quality Framework (RQF).

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Background

The Bill includes provisions to implement the revised *National Protocols for Higher Education Approval Processes* (the Protocols) following a review and consultation process regarding the existing protocols, a process which commenced in 2003.¹ The Bill also provides funding for implementation of a new method of assessing and funding research: the Research Quality Framework (RQF).² Like the revised Protocols, the RQF follows a lengthy review and consultation process arising from policies announced in the 2004-05 Budget as part of the Government's science and innovation package *Backing Australia's Ability*.

Research Quality Framework

As part of the science and innovation package [Backing Australia's Ability](#) the Government announced a Research Quality Framework (RQF) for publicly funded research would be developed in consultation with universities and publicly funded research agencies to measure the quality of research and its benefits to the wider community. Following a consultation period the RQF has been formulated by an advisory group and [endorsed by the Government](#). The RQF will provide the basis for redistributing research funding. Two key criteria to be used are that research rewarded must be of the 'highest quality and highest impact'.³ A major criticism of the RQF is the perceived problems in measuring the impacts of research.⁴ Concern has also been expressed that it will be expensive to implement and administer. The Productivity Commission concluded that 'there is no clear objective evidence pointing to deficiencies in the quality of research currently funded through block grants. There is, however, evidence that the RQF will bring costs as well as benefits but, at this stage, it is not possible to assess the balance'.⁵

National Protocols for Higher Education Approval Processes

The existing *National Protocols for Higher Education Approval Processes* ('the Protocols') were approved by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) in 2000. The development of the Protocols followed the attempt by Greenwich University to operate in Australia with support from the Norfolk Island Government. The case of Greenwich University highlighted the absence of an agreed national approach to higher education approvals.

In December 2003 the Department of Education, Science and Training (DEST) initiated a review of the Protocols. The review by former Vice-Chancellor Professor Gus Guthrie called for a national discussion of the agreed understanding of what is a university and what is higher education more generally.⁶ Following the Guthrie Review the then Minister for Education, Science and Training, the Hon Dr Brendan Nelson, initiated a national consultation process to consider changes to the Protocols. In the Government's issues paper [Building University Diversity](#), released in March 2005 the Minister stressed 'the need for a diverse range of higher education institutions servicing different communities

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and varied requirements' and called for debate on 'the requirement for all universities to undertake research as well as teaching'.⁷

Revised Protocols were developed by MCEETYA's Joint Committee on Higher Education and following consideration of feedback from the sector, were endorsed by MCEETYA in July 2006. The revised [*National Protocols for Higher Education Approval Processes*](#) will take effect from 31 December 2007 pending amendments to Commonwealth and State and Territory legislation.

Main provisions

Schedule 1

Items 1-62 are amendments required to give effect to the Protocols which were agreed by MCEETYA in July 2006. These protocols are given legislative recognition in HESA, Schedule 1 of which says '*National Protocols* means the National Protocols for Higher Education Approval Processes (first endorsed by the Ministerial Council on Employment, Education, Training and Youth Affairs on 31 March 2000), as in force from time to time.

The revised Protocols, which apply to both new and existing institutions, include a number of new provisions which will facilitate the Government's call for diversity in the higher education sector. Key changes in the protocols are:

- Provision for specialist universities to offer courses at undergraduate and postgraduate level and undertake research activity in one or two fields of study only;
- Provision for institutions other than universities to seek authority to accredit their own courses where they demonstrate a strong track record in quality assurance and reaccreditation;
- To reserve the title 'University college' for use by new universities, which during an establishment period, need only undertake research and higher degree teaching in one field;
- Provision for 'university colleges' to develop into new universities under the sponsorship of an established university; and
- Clearer rules on the requirements of overseas institutions designed to assist those with appropriate international standing to offer courses in Australia and thereby increase choice for students.

The Protocols define use of the title 'university' but allow new types of institutions to operate in Australia, specifically specialist universities and university colleges. University colleges may not shorten their title to 'university' but will be allowed to develop new universities under the sponsorship of an established university. Specialised universities

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may use a modified form of university title reflecting the discipline of specialisation (e.g. Sydney University of the Performing Arts) but may not shorten their title to ‘university’.

Schedule 2

Schedule 2 deals with entitlement to OS-HELP for periods of study with overseas higher education institutions. OS-HELP is a loan scheme to assist eligible undergraduate students to undertake some of their course of study overseas. The provisions of **Schedule 2 Item 3** clarify that to be eligible for OS-HELP the student must be:

- enrolled in full-time study with an overseas higher education provider;
- outside Australia while undertaking the study and;
- undertaking study outside Australia which will count towards the course requirements of the student's home provider (the Australian provider).

Item 2 clarifies that a student is eligible to apply for OS-HELP whilst overseas but is not eligible if the student has completed the overseas study.

Schedule 3

Item 1 clarifies that students are no longer entitled to assistance under the HEFA.

Item 2 sets a six week time limit after the census date for the provision of corrected information by a student that affects their eligibility for Commonwealth assistance.

Schedule 4

Schedule 4 ensures that higher education providers may determine the campuses at which units of study will be offered to Commonwealth supported places (previously ‘HECS places’) and allows providers to stipulate that a student may be Commonwealth supported only if the study is undertaken at a particular campus.

Schedule 5

Schedule 5 clarifies the residential eligibility for Commonwealth assistance through HECS-HELP⁸ and FEE-HELP.⁹ New Zealand citizens and permanent visa holders are not eligible for Commonwealth supported places, HECS-HELP or FEE-HELP if they are undertaking their entire course of study overseas. However the provisions in Schedule 5 clarify that when the course requires some time outside Australia (e.g. undertaking an archaeological dig) then the student may access Commonwealth support and assistance.

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Schedule 6

Provisions in Schedule 6 deal with the meaning of ‘bridging course for overseas-trained professionals’ and allow for such courses to be provided by Open Universities Australia as well as by higher education providers.

Schedule 7

Item 1 deals with the name change of Victoria University of Technology to Victoria University on the list of Table A providers. Higher education providers listed in Table A of the HESA receive Commonwealth Grant Scheme funding for Commonwealth supported student places (previously called ‘HECS places’).

Schedule 8

The provisions of Schedule 8 allow a higher education provider to advise a student undertaking studies across universities that the student is Commonwealth supported even when either of the home or host university is a non-Table A provider.

Schedule 9

Item 1 varies the maximum payments for other grants under Part 2-3 of the HESA to provide funding for the RQF.

In December 2006 the Minister announced funding of \$87 million to support the implementation of the RQF, of which \$41.9 million will be provided to universities over three years commencing in 2007-08. The Bill appropriates \$40.8 million of the \$87 million to assist universities meet the costs of implementing the requirements of the RQF and to fund the Australian Scheme for Higher Education Repositories programme: a university digital storage system that will allow research outputs to be submitted for RQF assessment. The remainder of the \$87 million will be spent on the departmental costs of implementing the RQF.¹⁰

Schedule 10

Items 1 and 2 clarify that a determination made by the Minister to suspend a provider’s approval as a higher education provider is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

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Concluding comments

The significant features of the Bill are those relating to the *National Protocols for Higher Education Approval Processes* and the funding of the Research Quality Framework. The revised Protocols continue to define use of the title university and what courses and activities universities should offer. The Protocols maintain the understanding of universities as research-based institutions providing quality teaching and research to PhD level in at least three fields. Whilst maintaining the requirement for research and research teaching, the Protocols reduce the research and research teaching requirements to one or two fields of study in specialist universities and university colleges. The Protocols are also to be amended so that some institutions can accredit their own courses.

In a wide ranging speech on the need for diversity in the higher education sector the Minister, the Hon. Julie Bishop, welcomed the revised Protocols as an important part in moving the sector from a 'one-size-fits-all mentality' thereby, increasing choice for students.¹¹ Universities are also likely to experience competition from a growing private sector that has benefited from the introduction in 2005 of FEE-HELP, an income contingent loan scheme for full-fee paying domestic students accessed through the provider. The requirement for research across at least three fields may deter private providers seeking full university status, but some may seek the specialist university status.¹² Private providers welcome access to self-accrediting status and many are likely to seek such status as it would save the time and money spent under the existing provisions whereby they must satisfy state authorities of the quality of their courses.¹³

The Australian Vice-Chancellors Committee (AVCC) is not opposed to new universities but is more concerned that the quality of Australian university education is maintained.¹⁴ However the minister expects diversity will not mean more universities, indeed, she says 'I hope over time it will mean either the same number, or, perhaps, fewer universities. I do not propose to force universities into mergers. These marriages must be voluntary, but I encourage universities to look at their future, and determine which direction to take – merge or reform.'¹⁵

Funding for the RQF partly allays the concerns of universities about the implementation costs of the RQF. The AVCC estimated costs of \$40 million and these have been recognised in the Bill.¹⁶ A wider concern is the need for the RQF. The AVCC's submission to the review stated

If the Government does not consider that additional investment in research is justified then the AVCC has severe misgivings about whether the RQF should be implemented in the complex way currently being developed. In such a case, it would be much more resource efficient for Government and universities to modify the existing formulae for the Institutional Grants Scheme and Research Training Scheme to inject an element of qualitative assessment of research outputs drawing on the extensive existing data sets about the quality and impact of research.¹⁷

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Critics of the framework have also noted the British Government's decision to review their RQF like Research Assessment Exercise (RAE) in favour of a simpler mainly metrics based system such as the existing Australian framework which includes measures such as research income, research publications, and research student load and completions. The Labor Party has promised to replace the RQF with a new Research Quality Assurance system and use the \$87 million to implement such a system.¹⁸

Endnotes

1. Details and documents on the review of the Protocols available on the DEST website at: http://www.dest.gov.au/sectors/higher_education/policy_issues_reviews/key_issues/MCEET_YAS/default.htm
2. Details and documents on the RQF available on the DEST website at: http://www.dest.gov.au/sectors/research_sector/policies_issues_reviews/key_issues/research_quality_framework/default.htm
3. [Research Quality Framework Fact Sheet](#); the [Recommended RQF](#) as endorsed by the Development Advisory Group was released in October 2006.
4. 'RQF design not advanced enough for 2008 start, say lobby groups', *Campus Review*, 6 September 2006, p. 6.; Productivity Commission [Public Support for Science and Innovation Draft Research Report](#), Productivity Commission November 2006, Box 11.3, pp. 11.18-19.
5. Productivity Commission [Public Support for Science and Innovation Draft Research Report](#) p. 11.1.
6. [Further Development of the National Protocols for Higher Education Approval Processes \(Guthrie Review\)](#) DEST, 2004.
7. [Building University Diversity: Future approval and accreditation processes for Australian higher education, Issues Paper](#), DEST, March 2005, p. i.
8. HECS-HELP is a loan available to eligible students enrolled in Commonwealth supported places to cover all or part of the student contribution amount. The Australian Government pays the loan amount directly to the higher education provider and a HECS-HELP debt is recorded for the student with the Tax Office.
9. FEE-HELP is an income contingent loan scheme for full-fee paying domestic students accessed through the provider.
10. J. Bishop (Minister for Education, Science and Training), [Minister announces financial support for RQF](#), media release, 18 December 2006.
11. J. Bishop (Minister for Education, Science and Training), [Speech Curtin Institute Public Policy Forum 24 July 2006](#); Academic Simon Marginson argues that the Protocols will instead create confusion and believes a preferred approach is to maintain a register of two types of university: 'research universities' that would have to fulfil the criteria currently

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required for 'universities' and teaching only universities, see: Simon Marginson, 'Separate protocol for foreign universities unstable', *Campus Review*, 22 March 2006, p. 6.

12. Subjects mooted for specialist universities have been mineral resources, performing arts, food science and agriculture but the greatest growth among private providers is religion based institutions. See: Guy Healey, 'University title protected by research depth', *Campus Review*, 22 March 2006, p.6; Guy Healey, 'The shape of things to come', *Campus Review*, 29 March 2006, pp. 12-13.
13. Guy Healey, 'University title protected by research depth', *Campus Review*, 22 March 2006, p.6.
14. 'Way clear for specialist unis', *Australian*, 12 July 2006.
15. J. Bishop (Minister for Education, Science and Training), [Speech Curtin Institute Public Policy Forum 24 July 2006](#)
16. [AVCC welcomes release of RQF final advice by the Minister](#), media release, 28 March 2006.
17. AVCC, [The Research Quality Framework: The AVCC Response to the EAG's Preferred Model](#), AVCC, October 2005, p. 3.
18. Kim Carr, 'Bell tolls for RQF under Labor', *Campus Review*, 27 February 2007, p. 3; 'Labor to scrap flawed RQF', *Australian*, 21 February 2007.

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