



**HIGHER EDUCATION
(GENERAL PROVISIONS)
ACT 1993**

Act No. 12 of 1993

Queensland



HIGHER EDUCATION (GENERAL PROVISIONS) ACT 1993

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Higher Education (General Provisions) Act 1993

Act No. 12 of 1993

An Act to make provision in relation to the establishment of universities and for the accreditation of courses that lead to higher education awards proposed to be offered by other bodies and institutions, and for related purposes

[Assented to 28 May 1993]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Higher Education (General Provisions) Act 1993*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Definitions

3. In this Act—

“**accredit**” includes re-accredit;

“**advertise**” means publish in any way, and includes publish—

- (a) in a newspaper or periodical; and
- (b) by radio or television; and
- (c) in a film or video recording; and
- (d) by a notice, sign or circular;

“**authorised**” means—

- (a) accredited by the Minister under this Act; or
- (b) authorised by, or accredited under, another Act; or
- (c) authorised by, or accredited under, an Act of the Commonwealth, another State or a Territory; or
- (d) authorised by, or accredited under, the law of a foreign country; or
- (e) authorised or accredited by the authority in a foreign country that, in the Minister’s opinion, is the competent authority;

“**higher education**” means education—

- (a) that is provided by a university; or

- (b) that is provided by a non-university provider and—
 - (i) is accredited by the Minister under this Act; or
 - (ii) is accredited or otherwise recognised under another Act, or an Act of the Commonwealth, another State or a Territory, as being higher education; or
 - (iii) is accredited or otherwise recognised under the law of a foreign country as being higher education; or
 - (iv) is accredited or otherwise recognised as being higher education by the authority in a foreign country that, in the Minister’s opinion, is the competent authority;

“higher education award” means—

- (a) a degree, status, title or description of bachelor, master or doctor; or
- (b) an award of postgraduate diploma or graduate certificate; or
- (c) another award prescribed by regulation;

“non-university provider” means a person (other than a university) that provides, or proposes to provide, a course of higher education;

“person” includes body and institution;

“university” means a higher education institution—

- (a) that is—
 - (i) established or recognised as a university under an Act; or
 - (ii) established or recognised as a university under an Act of the Commonwealth, another State or a Territory; or
- (b) that is—
 - (i) established in a foreign country; and
 - (ii) recognised as a university by the authority in the foreign country that, in the Minister’s opinion, is the competent authority for the purpose; or
- (c) that is recognised by regulation to be a university.

Minister may make inquiries to form certain opinions

4. To enable the Minister to form the opinion mentioned in paragraph (e) of the definition “authorised”, paragraph (b)(iv) of the definition “higher education”, or paragraph (b)(ii) of the definition “university”, in section 3, the Minister may make the inquiries that the Minister considers appropriate.

Establishment of universities in Queensland

5. In determining whether a higher education institution should be established or recognised as a university in Queensland under an Act, the Minister must have regard to the regulations.

Limitation on operation in Queensland of foreign universities

6.(1) A university mentioned in paragraph (b) of the definition “university” in section 3 must not operate, or purport to operate, in Queensland as a university, or part of a university, without the Minister’s approval.

(2) Approval mentioned in subsection (1) may be given only if the Minister is satisfied that the university complies with the regulations.

Limitation on use of “university” etc.

7. Unless an institution, facility, school, college or other place that offers, or purports to offer, higher education is established as, or recognised as being, a university or part of a university, a person must not give to it the title ‘university’, ‘university college’ or a like title (whether any of those titles is given alone or in combination with other titles).

Maximum penalty—200 penalty units.

Limitation on conferring or using certain awards

8.(1) A non-university provider, or a person who purports to be a non-university provider, must not confer, or hold out that the provider or person is competent to confer, a higher education award unless the provider or person is authorised to confer the award.

Maximum penalty—200 penalty units.

(2) A non-university provider, or a person who purports to be a non-university provider, must not send, exhibit, print or advertise a document that is likely, or is intended by the provider or person, to induce the belief that the provider or person, in Queensland or elsewhere—

- (a) will confer a higher education award; or
- (b) undertakes to confer a higher education award; or
- (c) holds out that the provider or person is competent to confer a higher education award;

unless the provider or person is authorised to confer the award.

Maximum penalty—200 penalty units.

(3) A person, with a view to obtaining an advantage or benefit for the person or another person, must not—

- (a) use, or attempt to use, a higher education award; or
- (b) induce, or attempt to induce, the belief that the person has a higher education award;

unless the award was conferred on the person by—

- (c) a university; or
- (d) a non-university provider that was authorised to confer the award.

Maximum penalty—100 penalty units.

Universities as accrediting authorities

9. Each university is the accrediting authority for courses that lead to awards that it confers.

Minister as accrediting authority

10.(1) The Minister is the accrediting authority for courses leading to higher education awards offered, or proposed to be offered, by non-university providers.

(2) The Minister may accredit a course for a higher education award, or a proposed higher education award, if the Minister is satisfied, following an assessment made in accordance with accreditation procedures and criteria

approved by the Minister, that the course, and the way of delivering it, are appropriate to the type of the award.

(3) An accreditation by the Minister—

- (a) stays in force for the period that the Minister determines; and
- (b) is subject to conditions that may be imposed by the Minister.

(4) The Minister may amend or revoke an accreditation under subsection (2) if the Minister is satisfied, following a reassessment of the accreditation made in accordance with the procedures and criteria mentioned in subsection (2), that the course, or the way of delivering it, is no longer appropriate to the type of the award.

Copies of accreditation procedures and criteria to be made available

11.(1) A person may request the chief executive of the department to give the person a copy of the procedures and criteria mentioned in section 10(2).

(2) The chief executive must promptly comply with the request.

Minister may examine non-university provider's operations

12.(1) For the purpose mentioned in subsection (2), the Minister may examine, or cause to be examined, the operation or proposed operation (including financial arrangements) of a non-university provider.

(2) An examination mentioned in subsection (1) is for the purpose of enabling the Minister to form an opinion about whether—

- (a) the standard of a course; and
- (b) the way of delivering the course; and
- (c) the ability (including financial ability) of the non-university provider to deliver the course;

justify the course being accredited under section 10.

(3) If during the period for which a course has been accredited, the Minister is satisfied on reasonable grounds that the matters mentioned in subsection (2) may no longer justify the course's continued accreditation, the Minister may examine, or cause to be examined, the operation

(including financial arrangements) of the non-university provider concerned.

Applications under s.10

13. Application for accreditation under section 10 must be made in accordance with the approved accreditation procedures mentioned in section 10(2) and accompanied by the fees prescribed by regulation.

Decision on applications to be advised

14.(1) The Minister must advise an applicant for accreditation under section 10, in writing, of the Minister's decision on the application.

(2) The advice mentioned in subsection (1) must—

- (a) if the application is approved—specify the period of approval and the conditions (if any) to which the approval is subject; or
- (b) if the application is refused—give reasons for the decision.

Amendment or revocation to be advised

15. If an accreditation given under section 10 is amended or revoked, the Minister must immediately—

- (a) advise the non-university provider, in writing, of the amendment or revocation; and
- (b) give the non-university provider written reasons for the amendment or revocation.

Appeal against Minister's decision

16.(1) A person who is aggrieved by a decision of the Minister under this Act may appeal against the decision to a District Court Judge.

(2) The appeal—

- (a) must be instituted—
 - (i) within 28 days after the person receives notice of the decision; and

- (ii) by filing a notice of appeal in the appropriate District Court registry; and
 - (iii) by complying with rules of court applicable to the appeal; and
 - (b) must be conducted in accordance with rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with directions of a District Court Judge; and
 - (c) is by way of rehearing of the material before the Minister or, if the Judge hearing the appeal orders, on material submitted on the appeal, or on both.
- (3) The Minister is a party to the appeal.
- (4) On the appeal, the Judge may make the orders the Judge considers just.
- (5) In this section—
- “decision”** includes a failure to make a decision.

Annual report

17. As soon as practicable after the end of each financial year, the Minister must prepare a report on the operation of this Act during the year and cause a copy of the report to be tabled in the Legislative Assembly.

Bodies may be excluded from operation of Act

18. A body may be excluded from the operation of this Act by regulation.

Regulations

19. The Governor in Council may make regulations for the purposes of this Act.

Amendment of Education (General Provisions) Act 1989

20.(1) The *Education (General Provisions) Act 1989* is amended as set out in this section.

(2) Part 7—

omit.