

Queensland



**HIGHER EDUCATION  
(GENERAL PROVISIONS)  
BILL 2003**



Queensland



# HIGHER EDUCATION (GENERAL PROVISIONS) BILL 2003

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#### **CONSEQUENTIAL AND OTHER AMENDMENTS OF ACTS**

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<b>DICTIONARY</b>	

**2003**

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**A BILL**

**FOR**

**An Act to provide for the approval of the establishment or recognition of universities, approval of the operation of overseas higher education institutions or interstate universities, accreditation of courses offered by non-university providers, and for other purposes**

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<b>The Parliament of Queensland enacts—</b>	1
<b>PART 1—PRELIMINARY</b>	2
<i>Division 1—Introduction</i>	3
<b>1 Short title</b>	4
This Act may be cited as the <i>Higher Education (General Provisions) Act 2003</i> .	5 6
<b>2 Commencement</b>	7
This Act commences on a day to be fixed by proclamation.	8
<b>3 Act binds all persons</b>	9
(1) This Act binds all persons, including the State, and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.	10 11 12
(2) Nothing in this Act makes the Commonwealth or a State liable to be prosecuted for an offence.	13 14
<i>Division 2—Interpretation</i>	15
<b>4 Definitions</b>	16
The dictionary in schedule 2 defines particular words used in this Act.	17
<i>Division 3—Objects</i>	18
<b>5 Objects of Act</b>	19
(1) The objects of this Act are—	20

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(a)	to uphold the standards of education delivered by higher education institutions operating in Queensland; and	1 2
(b)	to maintain public confidence in the higher education sector in the State.	3 4
(2)	The objects are to be achieved mainly by—	5
(a)	establishing a process for the establishment or recognition of a university in the State; and	6 7
(b)	providing for the approval of the operation of overseas higher education institutions in Queensland; and	8 9
(c)	providing for the accreditation of higher education courses proposed to be offered by non-university providers; and	10 11
(d)	providing for the approval of the operation of interstate universities, under an agency arrangement, in Queensland; and	12 13
(e)	limiting the use of a title that consists of, or includes, the word ‘university’.	14 15
 <b>PART 2—ESTABLISHMENT OF, OR RECOGNITION AS, UNIVERSITY</b>		 16 17
 <i>Division 1—Application for Minister’s approval</i>		 18
<b>6</b>	<b>Procedural requirements for application</b>	19
(1)	The governing body of a higher education institution may apply for the Minister’s approval that the institution is suitable to be established or recognised, under an Act, as a university in Queensland.	20 21 22
(2)	The application must—	23
(a)	be made to the Minister; and	24
(b)	be in writing; and	25
(c)	be accompanied by the fee prescribed under a regulation.	26

<b>7 Referral of application to committee</b>	1
(1) After receiving an application under section 6, the Minister must establish a committee and refer the application to it for its consideration.	2 3
(2) The committee must consist of at least 3 persons appointed by the Minister.	4 5
(3) The Minister may appoint a person to be a member of the committee only if the Minister is satisfied the person has substantial knowledge and experience of—	6 7 8
(a) academic affairs; or	9
(b) university management; or	10
(c) the design, development and delivery of higher education courses; or	11 12
(d) business management.	13
 <i>Division 2—Public notification of application</i>	 14
<b>8 Public notification</b>	15
(1) As soon as practicable after the application is referred to the committee under section 7, the committee must publish a notice about the application in—	16 17 18
(a) a newspaper circulating throughout Queensland; and	19
(b) any regional newspaper circulating generally in the region in which the institution is located or proposed to be located.	20 21
(2) A notice published under subsection (1)(b) must be published on the same day the notice is published under subsection (1)(a).	22 23
(3) The notice must state the following—	24
(a) the name of the applicant;	25
(b) the institution’s location or proposed location;	26

(c) where the description statement for the application may be inspected; <sup>1</sup>	1 2
(d) that a copy of the description statement is posted on the department's web site on the internet;	3 4
(e) that anyone may make a submission to the committee about the application;	5 6
(f) the period (the " <b>submission period</b> ") during which submissions may be made;	7 8
(g) how to make a properly made submission;	9
(h) any other matter prescribed under a regulation.	10
(4) The submission period must be at least 14 days after the publication of the notice under subsection (1).	11 12
<b>9 Description statement</b>	13
(1) The committee must, as soon as practicable after the application is referred to it, prepare a statement (the " <b>description statement</b> ") giving a brief description of the application.	14 15 16
(2) The committee must, without charge, allow a person to inspect the description statement, during ordinary office hours, at the head office of the department.	17 18 19
(3) Also, the chief executive must keep a copy of the description statement posted on the department's web site on the internet. <sup>2</sup>	20 21
<b>10 Right to make submission</b>	22
A person may, within the submission period, make a submission to the committee about the application.	23 24
<b>11 Acceptance of submission</b>	25
(1) The committee must accept a submission, made under section 10, if it—	26 27

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1 See section 9 (Description statement).

2 The department's web site address on the internet is [www.education.qld.gov.au](http://www.education.qld.gov.au)

- (a) is written; and 1
- (b) is signed by or for each person (“**signatory**”) who made the submission; and 2  
3
- (c) states the name and address of each signatory; and 4
- (d) is made to the committee; and 5
- (e) is received on or before the last day of the submission period. 6
- (2) A submission complying with subsection (1) is called a “**properly made submission**”. 7  
8
- (3) The committee may accept a written submission even if it is not a properly made submission. 9  
10

***Division 3—Recommendation by committee*** 11

**12 Consideration by committee** 12

(1) The committee must consider whether the institution will comply with the relevant criteria mentioned in the national protocols on its establishment or recognition, under an Act, as a university in Queensland. 13  
14  
15

(2) In its consideration, the committee is not restricted to the information contained in the application. 16  
17

**13 Further information or document to support application** 18

(1) The committee may, by notice given to the applicant, require the applicant to give the committee within a reasonable time of at least 14 days stated in the notice further information or a document the committee reasonably requires to make its recommendation on the application. 19  
20  
21  
22

(2) The applicant is taken to have withdrawn the application if within the stated time the applicant does not comply with the requirement. 23  
24

**14 Report by committee about application** 25

(1) After completion of its consideration of the application, the committee must— 26  
27

- (a) give the Minister a written report on the application; and 28
- (b) give the applicant a copy of the report. 29

(2) The report must contain—	1
(a) the committee’s recommendation about whether the Minister should grant the application; and	2 3
(b) if the committee recommends that the Minister grant the application—any recommendation by the committee that the Minister impose a condition on the approval.	4 5 6
(3) In this section—	7
“ <b>recommendation</b> ” includes reasons for the recommendation.	8
<b>15 Representations about any condition recommended by committee</b>	9
(1) This section applies if the committee recommends that the Minister grant the application and impose a condition on the approval.	10 11
(2) The applicant may make written representations to the Minister about the condition within 14 days after the applicant is given a copy of the committee’s report on the application.	12 13 14
<i>Division 4—Decision of Minister</i>	
<b>16 Decision on application</b>	16
(1) The Minister must consider the application and either grant, or refuse to grant, the application.	17 18
(2) When considering the application, the Minister must have regard to the committee’s report on the application.	19 20
(3) The Minister is not bound by any recommendation contained in the report.	21 22
(4) The Minister may grant the application only if the Minister is satisfied the institution will comply with the relevant criteria mentioned in the national protocols on its establishment or recognition, under an Act, as a university in Queensland.	23 24 25 26
(5) If the Minister decides to grant the application, the Minister must as soon as practicable give the applicant notice of the decision.	27 28
(6) If the Minister decides to refuse to grant the application, the Minister must as soon as practicable give the applicant an information notice about the decision.	29 30 31

(7) If the Minister fails to decide the application within 1 year after its receipt, the Minister is taken to have decided to refuse to grant the application.	1 2 3
(8) Subsection (7) is subject to section 17.	4
<b>17 Further consideration of application</b>	5
(1) This section applies if the Minister considers further time is needed to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application.	6 7 8
(2) The applicant and Minister may at any time before the final consideration day agree in writing on a day (the “ <b>agreed extended day</b> ”) by which the decision is to be made.	9 10 11
(3) If the Minister fails to make the decision by the agreed extended day, the Minister is taken to have decided to refuse to grant the application.	12 13
(4) In this section—	14
“ <b>final consideration day</b> ” means the day that is 1 year after the application was received by the Minister.	15 16
<b>18 Imposition of conditions</b>	17
(1) The Minister may, in granting the application, decide to impose conditions on the approval that are relevant and reasonable.	18 19
(2) If the Minister decides to impose conditions on the approval, the Minister must as soon as practicable give the applicant an information notice about the decision.	20 21 22
<b><i>Division 5—Review of university’s operation</i></b>	23
<b>19 Review</b>	24
(1) The Minister may, after the fifth anniversary of the establishment or recognition under an Act of a university, review the university’s operation.	25 26
(2) The review must involve a consideration of whether the university is complying with the relevant criteria mentioned in the national protocols.	27 28

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**PART 3—OVERSEAS HIGHER EDUCATION INSTITUTIONS** 1  
2

*Division 1—Interpretation* 3

**20 Definitions for pt 3** 4

In this part— 5

“**change day**” see section 42(3)(b). 6

“**change notice**” see section 42(3). 7

“**key details**” see section 21(2). 8

“**operate**”, an overseas higher education institution in Queensland, includes operate the institution in Queensland by electronic communication. 9  
10  
11

“**operational plan**” see section 21(1). 12

**21 Meaning of “operational plan”** 13

(1) An “**operational plan**”, for an overseas higher education institution, means a document detailing the operation of the institution in Queensland by reference to the relevant criteria mentioned in the national protocols. 14  
15  
16

(2) The plan must include details (the “**key details**”) about each of the following— 17  
18

(a) the accreditation, by the competent authority for the purpose in the institution’s country of establishment, of the course the institution proposes to offer in Queensland; 19  
20  
21

(b) the institution’s governing body; 22

(c) the premises where the institution is to operate in Queensland; 23

(d) the facilities and resources, for the operation, at the premises; 24

(e) if the course is to be delivered by an agent of the institution—the name and address of the agent; 25  
26

(f) the mode of delivery of education to be used in the operation; 27

(g) the learning outcomes of the course; 28

(h) the requirements of the course to achieve the learning outcomes; 29

- (i) the level and name of the award that may be attained on successful completion of the course. 1  
2

*Division 2—Preliminary* 3

**22 Limitation on operation of overseas higher education institution** 4

A person must not operate an overseas higher education institution in Queensland unless the person has the Minister's approval under this part. 5  
6

Maximum penalty—200 penalty units. 7

**23 Operational plan to be available for inspection** 8

The holder of an approval under this part must ensure a copy of the operational plan for the institution the subject of the approval is available for inspection, free of charge, by members of the public during ordinary office hours at the premises at which the institution is approved to operate in Queensland. 9  
10  
11  
12  
13

*Division 3—Applications for approval* 14

**24 Procedural requirements for application** 15

(1) The governing body of an overseas higher education institution may apply for the Minister's approval to enable the institution to operate in Queensland. 16  
17  
18

(2) The application must— 19

(a) be made to the Minister; and 20

(b) be in writing; and 21

(c) be accompanied by— 22

(i) the fee prescribed under a regulation; and 23

(ii) the proposed operational plan for the institution. 24

**25 Decision on application**

(1) The Minister must consider the application and either grant, or refuse to grant, the application.

(2) The Minister may grant the application only if the Minister is satisfied the institution complies with the relevant criteria mentioned in the national protocols.

(3) In deciding the application, the Minister may examine the proposed operation of the institution in Queensland.

(4) If the Minister decides to grant the application, the Minister must as soon as practicable give the applicant notice of the decision.

(5) If the Minister decides to refuse to grant the application, the Minister must as soon as practicable give the applicant an information notice about the decision.

(6) If the Minister fails to decide the application within 1 year after its receipt, the Minister is taken to have decided to refuse to grant the application.

(7) Subsection (6) is subject to section 26.

**26 Further consideration of application**

(1) This section applies if the Minister considers further time is needed to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application.

(2) The applicant and Minister may at any time before the final consideration day agree in writing on a day (the “**agreed extended day**”) by which the decision is to be made.

(3) If the Minister fails to make the decision by the agreed extended day, the Minister is taken to have decided to refuse to grant the application.

(4) In this section—

“**final consideration day**” means the day that is 1 year after the application was received by the Minister.

<b>27</b>	<b>Term of approval</b>	1
	An approval under section 25 remains in force for the term, not more than 5 years, stated in the notice given to the applicant for the approval under section 25(4).	2 3 4
<b>28</b>	<b>Approval of operational plan</b>	5
	(1) This section applies if the Minister gives an approval under section 25 for an overseas higher education institution.	6 7
	(2) The Minister is taken to have approved the operational plan, for the institution, identified in the notice given to the applicant for the approval under section 25(4).	8 9 10
	(3) The Minister must endorse the plan with the Minister's written approval and give the endorsed plan to the applicant.	11 12
<b>29</b>	<b>Imposition of conditions</b>	13
	(1) The Minister may, in granting the application, decide to impose conditions on the approval that are relevant and reasonable.	14 15
	(2) If the Minister decides to impose conditions on the approval, the Minister must as soon as practicable give the applicant an information notice about the decision.	16 17 18
	<i>Division 4—Renewal of approvals</i>	19
<b>30</b>	<b>Applications for renewal</b>	20
	(1) The holder of an approval under this part may apply to the Minister for the renewal of the approval within the period starting 1 year, and ending 9 months, before the term of the approval ends.	21 22 23
	(2) The application must—	24
	(a) be in writing; and	25
	(b) be accompanied by—	26
	(i) the fee prescribed under a regulation; and	27

- (ii) a proposed operational plan, for the institution the subject of the approval, that is to apply if the Minister decides to renew the approval. 1  
2  
3
- (3) The Minister must consider the application and decide to renew, or refuse to renew, the approval. 4  
5
- (4) In deciding the application, the Minister may examine the operation of the institution in Queensland. 6  
7
- (5) The Minister may decide to renew the approval only if the Minister is satisfied the institution is complying with the relevant criteria mentioned in the national protocols. 8  
9  
10
- (6) If the Minister decides to renew the approval, the Minister must as soon as practicable give the applicant notice of the decision. 11  
12
- (7) If the Minister decides to refuse to renew the approval, the Minister must as soon as practicable give the applicant an information notice about the decision. 13  
14  
15
- (8) If the Minister fails to decide the application within 1 year after its receipt, the Minister is taken to have decided to refuse to renew the approval. 16  
17  
18
- (9) Subsection (8) is subject to section 31. 19
- 31 Further consideration of application** 20
- (1) This section applies if the Minister considers further time is needed to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application. 21  
22  
23
- (2) The applicant and Minister may at any time before the final consideration day agree in writing on a day (the “**agreed extended day**”) by which the decision is to be made. 24  
25  
26
- (3) If the Minister fails to make the decision by the agreed extended day, the Minister is taken to have decided to refuse to renew the approval. 27  
28
- (4) In this section— 29
- “**final consideration day**” means the day that is 1 year after the application was received by the Minister. 30  
31

**32 Term of approval**

1

An approval renewed under section 30 remains in force for the term, not more than 5 years, stated in the notice given to the applicant for the renewal under section 30(6).

2

3

4

**33 Approval of operational plan**

5

(1) This section applies if the Minister renews an approval under section 30 for an overseas higher education institution.

6

7

(2) The Minister is taken to have approved the operational plan, for the institution, identified in the notice given to the applicant for the renewal under section 30(6).

8

9

10

(3) The Minister must endorse the plan with the Minister's written approval and give the endorsed plan to the applicant.

11

12

**34 Imposition of conditions**

13

(1) The Minister may, in renewing the approval, decide to impose conditions on the approval that are relevant and reasonable.

14

15

(2) If the Minister decides to renew the approval on conditions, the Minister must as soon as practicable give the applicant an information notice about the decision.

16

17

18

(3) In this section—

19

“**impose**”, a condition, includes change or confirm the condition.

20

**35 Approval taken to be in force while application is considered**

21

(1) If an application is made under section 30, the applicant's approval under this part is taken to continue in force from the day that it would, apart from this section, have expired until—

22

23

24

(a) if the Minister decides to renew the approval—the day a notice about the decision is given to the applicant under section 30(6);  
or

25

26

27

(b) if the Minister decides to refuse to renew the approval—

28

(i) the last day to appeal against the decision; or

29

- (ii) if an appeal is instituted against the decision—the day the appeal is decided. 1  
2
- (2) Subsection (1) does not apply if the approval is earlier cancelled. 3

### *Division 5—Cancellation of approvals* 4

## **36 Grounds for cancellation** 5

Each of the following is a ground for cancelling an approval under this part— 6  
7

- (a) the institution the subject of the approval is not complying, or has not complied, with the relevant criteria mentioned in the national protocols; 8  
9  
10
- (b) the holder of the approval has contravened a condition of the approval; 11  
12
- (c) there has been a change, without the Minister’s approval under section 42, in a key detail mentioned in the institution’s operational plan. 13  
14  
15

## **37 Show cause notice** 16

(1) If the Minister reasonably believes a ground exists to cancel an approval under this part, the Minister must give the holder of the approval a notice under this section (a “**show cause notice**”). 17  
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19

(2) The show cause notice must state the following— 20

- (a) the action (the “**proposed action**”) the Minister proposes taking under this division; 21  
22
- (b) the ground for the proposed action; 23
- (c) an outline of the facts and circumstances forming the basis for the ground; 24  
25
- (d) an invitation to the holder to show within a stated period (the “**show cause period**”) why the proposed action should not be taken. 26  
27  
28

(3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the holder. 29  
30

<b>38 Representations about show cause notice</b>	1
(1) The holder may make written representations about the show cause notice to the Minister in the show cause period.	2 3
(2) The Minister must consider all written representations (the “ <b>accepted representations</b> ”) made under subsection (1).	4 5
<b>39 Ending show cause process without further action</b>	6
If, after considering the accepted representations for the show cause notice, the Minister no longer believes the ground exists to cancel the approval, the Minister—	7 8 9
(a) must not take further action about the show cause notice; and	10
(b) must, as soon as practicable, give notice to the holder that no further action will be taken about the show cause notice.	11 12
<b>40 Cancellation</b>	13
(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister—	14 15
(a) still believes the ground exists to cancel the approval; and	16
(b) believes cancellation of the approval is warranted.	17
(2) This section also applies if there are no accepted representations for the show cause notice.	18 19
(3) The Minister may decide to cancel the approval.	20
(4) The Minister must, as soon as practicable, give an information notice about the decision to the holder.	21 22
(5) The decision does not take effect until—	23
(a) the last day to appeal against the decision; or	24
(b) if an appeal is instituted against the decision—the day the appeal is decided.	25 26

**Division 6—Change in key details****41 Application to change key detail**

(1) The holder of an approval under this part may apply to the Minister to change a key detail mentioned in the operational plan for the institution the subject of the approval.

(2) However, if the change concerns a key detail of the type mentioned in section 21(2)(d) or (h), the application is only required to be made if the change will have the effect of—

- (a) changing the learning outcomes for the course offered by the institution under the approval; or
- (b) adversely affecting the institution’s ability to deliver the learning outcomes.

(3) The application must—

- (a) be in writing; and
- (b) be accompanied by the fee, if any, prescribed under a regulation.

**42 Decision of Minister**

(1) The Minister must consider the application and either grant, or refuse to grant, the application.

(2) The Minister may decide to grant the application only if the Minister is satisfied, after the change is effected, the institution will comply with the relevant criteria mentioned in the national protocols.

(3) If the Minister decides to grant the application, the Minister must as soon as practicable give the applicant a notice (a “**change notice**”) stating—

- (a) the decision; and
- (b) the day (the “**change day**”) by which the change must be effected.

(4) If the Minister decides to refuse to grant the application, the Minister must as soon as practicable give the applicant an information notice about the decision.

(5) If the Minister fails to decide the application within 6 months after its receipt, the Minister is taken to have decided to refuse to grant the application. 1  
2  
3

#### **43 Recording change of key detail** 4

(1) This section applies if the holder of an approval under this part receives a change notice about a change in a key detail mentioned in the operational plan for the institution the subject of the approval. 5  
6  
7

(2) The holder must return the plan to the Minister within 14 days after receiving the notice. 8  
9

(3) The returned plan must incorporate the change and state the change day for the change. 10  
11

(4) On receiving the plan under subsection (2), the Minister must endorse the plan with the Minister's written approval and give the endorsed plan to the holder. 12  
13  
14

#### *Division 7—Other provisions* 15

#### **44 Conferring of higher education award by overseas higher education institution etc.** 16 17

(1) An overseas higher education institution must not confer, or hold out that the institution is authorised to confer, a higher education award unless the institution is approved, under this part, to offer the course leading to the award. 18  
19  
20  
21

Maximum penalty—200 penalty units. 22

(2) A person must not hold out that an overseas higher education institution is authorised to confer a higher education award unless the institution is approved, under this part, to offer the course leading to the award. 23  
24  
25  
26

Maximum penalty—200 penalty units. 27

**PART 4—NON—UNIVERSITY PROVIDERS**

1

*Division 1—Preliminary*

2

**45 Limitation on operation of non-university provider**

3

A non-university provider must not offer a higher education course unless the course is an accredited course.

4

5

Maximum penalty—200 penalty units.

6

*Division 2—Applications for accreditation*

7

**46 Procedural requirements for application**

8

(1) The governing body of a non-university provider may apply for accreditation of a higher education course proposed to be offered by the provider.

9

10

11

(2) The application must—

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(a) be made to the Minister; and

13

(b) be in writing; and

14

(c) be accompanied by the fee prescribed under a regulation.

15

**47 Decision on application**

16

(1) The Minister must consider the application and either grant, or refuse to grant, the application.

17

18

(2) The Minister may grant the application only if the Minister is satisfied, having regard to the relevant criteria mentioned in the national protocols, that the course and the way of delivering it are appropriate to the type of the award to which the course leads.

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22

(3) In deciding the application, the Minister may examine the operation, or proposed operation, of the provider for the course.

23

24

(4) If the Minister decides to grant the application, the Minister must as soon as practicable give the applicant notice of the decision.

25

26

(5) If the Minister decides to refuse to grant the application, the Minister must as soon as practicable give the applicant an information notice about the decision. 1  
2  
3

(6) If the Minister fails to decide the application within 1 year after its receipt, the Minister is taken to have decided to refuse to grant the application. 4  
5  
6

(7) Subsection (6) is subject to section 48. 7

#### **48 Further consideration of application** 8

(1) This section applies if the Minister considers further time is needed to make a decision on the application because of the complexity of the matters that need to be considered in deciding the application. 9  
10  
11

(2) The applicant and Minister may at any time before the final consideration day agree in writing on a day (the “**agreed extended day**”) by which the decision is to be made. 12  
13  
14

(3) If the Minister fails to make the decision by the agreed extended day, the Minister is taken to have decided to refuse to grant the application. 15  
16

(4) In this section— 17

“**final consideration day**” means the day that is 1 year after the application was received by the Minister. 18  
19

#### **49 Term of accreditation** 20

The accreditation of an accredited course remains in force for the term, not more than 5 years, stated in the notice given to the applicant for the accreditation under section 47(4). 21  
22  
23

#### **50 Standard conditions** 24

It is a condition of the accreditation of an accredited course that the governing body of the non-university provider offering the course— 25  
26

(a) allows the Minister to enter, at any reasonable time, a place to examine the provider’s operation for the course at the place; and 27  
28

(b) complies with all reasonable requests by the Minister to give the Minister information or records (or a copy of the records) the governing body is keeping, or has control of, that are appropriate; 29  
30  
31

for the purpose of the Minister considering whether, having regard to the relevant criteria mentioned in the national protocols, the course and the way of delivering it are appropriate to the type of the award to which the course leads.	1 2 3 4
<b>51 Imposition of conditions</b>	5
(1) The Minister may, in granting the application, decide to impose conditions on the accreditation that are relevant and reasonable.	6 7
(2) If the Minister decides to impose conditions on the accreditation, the Minister must as soon as practicable give the applicant an information notice about the decision.	8 9 10
<i>Division 3—Cancellation of accreditations</i>	11
<b>52 Grounds for cancellation</b>	12
Each of the following is a ground for cancelling the accreditation of an accredited course—	13 14
(a) having regard to the relevant criteria mentioned in the national protocols, the course and the way of delivering it are no longer appropriate to the type of the award to which the course leads;	15 16 17
(b) the holder of the accreditation has contravened a condition of the accreditation;	18 19
(c) the holder of the accreditation does not provide an annual report for the course under section 60.	20 21
<b>53 Show cause notice</b>	22
(1) If the Minister reasonably believes a ground exists to cancel the accreditation of an accredited course, the Minister must give the holder of the accreditation a notice under this section (a “ <b>show cause notice</b> ”).	23 24 25
(2) The show cause notice must state the following—	26
(a) the action (the “ <b>proposed action</b> ”) the Minister proposes taking under this division;	27 28
(b) the ground for the proposed action;	29

(c) an outline of the facts and circumstances forming the basis for the ground;	1 2
(d) an invitation to the holder to show within a stated period (the “ <b>show cause period</b> ”) why the proposed action should not be taken.	3 4 5
(3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the holder.	6 7
<b>54 Representations about show cause notice</b>	8
(1) The holder may make written representations about the show cause notice to the Minister in the show cause period.	9 10
(2) The Minister must consider all written representations (the “ <b>accepted representations</b> ”) made under subsection (1).	11 12
<b>55 Ending show cause process without further action</b>	13
If, after considering the accepted representations for the show cause notice, the Minister no longer believes the ground exists to cancel the accreditation, the Minister—	14 15 16
(a) must not take further action about the show cause notice; and	17
(b) must, as soon as practicable, give notice to the holder that no further action will be taken about the show cause notice.	18 19
<b>56 Cancellation</b>	20
(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister—	21 22
(a) still believes the ground exists to cancel the accreditation; and	23
(b) believes cancellation of the accreditation is warranted.	24
(2) This section also applies if there are no accepted representations for the show cause notice.	25 26
(3) The Minister may decide to cancel the accreditation.	27
(4) The Minister must, as soon as practicable, give an information notice about the decision to the holder.	28 29
(5) The decision does not take effect until—	30

- (a) the last day to appeal against the decision; or 1
- (b) if an appeal is instituted against the decision—the day the appeal  
is decided. 2  
3

***Division 4—Changing conditions of accreditations*** 4

**57 Changing conditions** 5

(1) The Minister may change the conditions of the accreditation of an accredited course imposed by the Minister if there is a reasonable basis to make the change. 6  
7  
8

(2) Before deciding to change the conditions, the Minister must— 9

- (a) give notice to the holder of the accreditation— 10
  - (i) of the particulars of the proposed change; and 11
  - (ii) that the holder may make written submissions to the  
Minister about the proposed change within a reasonable  
period of at least 21 days stated in the notice; and 12  
13  
14
- (b) have regard to written submissions made to the Minister by the  
holder before the end of the stated period. 15  
16

(3) If the Minister decides to change the conditions, the Minister must as soon as practicable give the holder an information notice about the decision. 17  
18  
19

(4) The decision does not take effect until— 20

- (a) the last day to appeal against the decision; or 21
- (b) if an appeal is instituted against the decision—the day the appeal  
is decided. 22  
23

(5) The power of the Minister under subsection (1) includes the power to add conditions to the accreditation of an accredited course that is not subject to conditions imposed by the Minister. 24  
25  
26

<b><i>Division 5—Other provisions</i></b>		1
<b>58</b>	<b>Conferring of higher education award by non-university provider etc.</b>	2 3
	(1) A non-university provider must not confer, or hold out that the provider is authorised to confer, a higher education award unless the course leading to the award is an accredited course for the provider.	4 5 6
	Maximum penalty—200 penalty units.	7
	(2) A person must not hold out that a non-university provider is authorised to confer a higher education award unless the course leading to the award is an accredited course for the provider.	8 9 10
	Maximum penalty—200 penalty units.	11
<b>59</b>	<b>Course survey data</b>	12
	(1) A non-university provider offering an accredited course must in the approved form give the Minister course survey data, for the course, relating to the day prescribed under a regulation (the “ <b>relevant day</b> ”).	13 14 15
	(2) The data must be given within 3 months after the relevant day.	16
	(3) In this section—	17
	“ <b>course survey data</b> ”, for an accredited course, means the following—	18
	(a) the number of full-time students undertaking the course;	19
	(b) the number of part-time students undertaking the course;	20
	(c) the modes of delivery of the course;	21
	(d) the number of female students undertaking the course;	22
	(e) the number of male students undertaking the course;	23
	(f) the number of overseas students undertaking the course;	24
	(g) the number of students who have reached each identifiable level of study of the course;	25 26
	(h) the broad field of education to which the course belongs;	27
	(i) other details, about the course, prescribed under a regulation.	28
	“ <b>overseas student</b> ” means a person who—	29
	(a) is not an Australian resident; or	30

(b) holds a student visa issued under the <i>Migration Act 1958</i> (Cwlth).	1 2
<b>60 Annual report</b>	3
(1) A non-university provider offering an accredited course must, on or before 31 May in each year (the “ <b>reporting day</b> ”), give the Minister a written report (an “ <b>annual report</b> ”) for the period from the 1 January to the 31 December immediately before the reporting day that complies with subsection (2).	4 5 6 7 8
(2) For subsection (1), an annual report must contain information about the course, and the way of delivering it, that will enable the Minister to decide, having regard to the relevant criteria mentioned in the national protocols, whether continued accreditation of the course is justified.	9 10 11 12
<b>PART 5—INTERSTATE UNIVERSITIES</b>	13
<i>Division 1—Preliminary</i>	14
<b>61 Limitation on operation of interstate university</b>	15
A person must not operate an interstate university, under an agency arrangement, in Queensland unless the person has the Minister’s approval under section 63.	16 17 18
Maximum penalty—200 penalty units.	19
<i>Division 2—Applications for approval</i>	20
<b>62 Procedural requirements for application</b>	21
(1) The governing body of an interstate university may apply for the Minister’s approval to enable the university to operate, under an agency arrangement, in Queensland.	22 23 24
(2) The application must—	25
(a) be made to the Minister; and	26

(b) be in writing; and	1
(c) be accompanied by—	2
(i) details of the name and address of the agent under the arrangement; and	3 4
(ii) details of the address of the delivery place under the arrangement; and	5 6
(iii) a written undertaking by the governing body that it will ensure the delivery of a higher education course, under the arrangement, complies with the relevant criteria mentioned in the national protocols.	7 8 9 10
<b>63 Automatic grant of application</b>	11
If the application strictly complies with section 62(2), the Minister must as soon as practicable—	12 13
(a) grant the application; and	14
(b) give the applicant notice that the application is granted.	15
<b>64 Standard conditions</b>	16
It is a condition of an approval under section 63 that the agent under the relevant agency arrangement—	17 18
(a) allows the Minister to enter, at any reasonable time, the delivery place under the arrangement to inspect the place; and	19 20
(b) complies with all reasonable requests by the Minister to give the Minister information or records (or a copy of the records) the agent is keeping, or has control of, that are appropriate;	21 22 23
for the purpose of the Minister considering whether the delivery of a higher education course, under the arrangement, complies with the relevant criteria mentioned in the national protocols.	24 25 26

<b><i>Division 3—Cancellation of approvals</i></b>		1
<b>65</b>	<b>Grounds for cancellation</b>	2
	Each of the following is a ground for cancelling an approval under section 63—	3 4
	(a) the delivery of a higher education course under the relevant agency arrangement is not complying, or has not complied, with the relevant criteria mentioned in the national protocols;	5 6 7
	(b) there has been a contravention of a condition of the approval.	8
<b>66</b>	<b>Show cause notice</b>	9
	(1) If the Minister reasonably believes a ground exists to cancel an approval under section 63, the Minister must give the holder of the approval a notice under this section (a “ <b>show cause notice</b> ”).	10 11 12
	(2) The show cause notice must state the following—	13
	(a) the action (the “ <b>proposed action</b> ”) the Minister proposes taking under this division;	14 15
	(b) the ground for the proposed action;	16
	(c) an outline of the facts and circumstances forming the basis for the ground;	17 18
	(d) an invitation to the holder to show within a stated period (the “ <b>show cause period</b> ”) why the proposed action should not be taken.	19 20 21
	(3) The show cause period must be a period ending at least 30 days after the show cause notice is given to the holder.	22 23
<b>67</b>	<b>Representations about show cause notice</b>	24
	(1) The holder may make written representations about the show cause notice to the Minister in the show cause period.	25 26
	(2) The Minister must consider all written representations (the “ <b>accepted representations</b> ”) made under subsection (1).	27 28

<b>68</b>	<b>Ending show cause process without further action</b>	1
	If, after considering the accepted representations for the show cause notice, the Minister no longer believes the ground exists to cancel the approval, the Minister—	2 3 4
	(a) must not take further action about the show cause notice; and	5
	(b) must, as soon as practicable, give notice to the holder that no further action will be taken about the show cause notice.	6 7
<b>69</b>	<b>Cancellation</b>	8
	(1) This section applies if, after considering the accepted representations for the show cause notice, the Minister—	9 10
	(a) still believes the ground exists to cancel the approval; and	11
	(b) believes cancellation of the approval is warranted.	12
	(2) This section also applies if there are no accepted representations for the show cause notice.	13 14
	(3) The Minister may decide to cancel the approval.	15
	(4) The Minister must as soon as practicable—	16
	(a) give the holder an information notice about the decision; and	17
	(b) give the agent, under the relevant agency arrangement, a copy of the information notice.	18 19
	(5) The decision does not take effect until—	20
	(a) the last day to appeal against the decision; or	21
	(b) if an appeal is instituted against the decision—the day the appeal is decided.	22 23
	<i>Division 4—Imposition of conditions on approvals</i>	24
<b>70</b>	<b>Conditions</b>	25
	(1) The Minister may impose conditions on an approval under section 63 if there is a reasonable basis for the imposition.	26 27
	(2) Before deciding to impose the conditions, the Minister must—	28
	(a) give notice to the holder of the approval—	29

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- (i) of the conditions and the basis for their proposed imposition; and 1  
2
- (ii) that the holder may make written submissions to the Minister about the conditions within a reasonable period of at least 21 days stated in the notice; and 3  
4  
5
- (b) have regard to written submissions made to the Minister by the holder before the end of the stated period. 6  
7
- (3) If the Minister decides to impose the conditions, the Minister must as soon as practicable give an information notice about the decision to the holder. 8  
9  
10
- (4) The decision does not take effect until— 11
- (a) the last day to appeal against the decision; or 12
- (b) if an appeal is instituted against the decision—the day the appeal is decided. 13  
14

*Division 5—Other provisions* 15**71 Conferring of higher education award by interstate university etc.** 16

(1) An interstate university operating in Queensland under an agency arrangement must not confer, or hold out that the university is authorised to confer, a higher education award unless the university is approved, under section 63, to offer the course leading to the award. 17  
18  
19  
20

Maximum penalty—200 penalty units. 21

(2) A person must not hold out that an interstate university operating in Queensland under an agency arrangement is authorised to confer a higher education award unless the university is approved, under section 63, to offer the course leading to the award. 22  
23  
24  
25

Maximum penalty—200 penalty units. 26

<b>PART 6—APPEALS</b>		1
<b>72</b>	<b>Who may appeal</b>	2
	A person (the “ <b>appellant</b> ”) who is given, or is entitled to be given, an information notice for a decision (the “ <b>original decision</b> ”) may appeal against the decision to the District Court. <sup>3</sup>	3 4 5
<b>73</b>	<b>Starting appeals</b>	6
	(1) The appeal may be started at—	7
	(a) the District Court at the place where the appellant resides or carries on business; or	8 9
	(b) the District Court at Brisbane.	10
	(2) Subsection (1) does not limit the District Court at which the appeal may be started under the <i>Uniform Civil Procedure Rules 1999</i> .	11 12
	(3) The notice of appeal under the <i>Uniform Civil Procedure Rules 1999</i> must be filed with the registrar of the court within 28 days after—	13 14
	(a) if the appellant is given an information notice for the original decision—the day the appellant is given the notice; or	15 16
	(b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the original decision.	17 18
	(4) The court may, at any time, extend the period for filing the notice of appeal.	19 20
<b>74</b>	<b>Hearing procedures</b>	21
	(1) In deciding the appeal, the court—	22
	(a) has the same powers as the Minister; and	23
	(b) is not bound by the rules of evidence; and	24
	(c) must comply with natural justice.	25

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<sup>3</sup> The *Uniform Civil Procedure Rules 1999* contains provisions about appeals to the District Court.

- (2) The appeal is by way of rehearing, unaffected by the original decision, on the material before the Minister and any further evidence allowed by the court. 1  
2  
3
- 75 Powers of court on appeal** 4
- (1) In deciding the appeal, the court may— 5
- (a) confirm the original decision; or 6
  - (b) amend the original decision; or 7
  - (c) substitute another decision for the original decision; or 8
  - (d) set aside the original decision and return the issue to the Minister with the directions the court considers appropriate. 9  
10
- (2) In substituting another decision for the original decision, the court has the same powers as the Minister. 11  
12
- Example—* 13
- If a non-university provider is unsuccessful in obtaining accreditation, under section 47, of a course leading to a higher education award proposed to be offered by the provider, the court may decide that the course be accredited on particular conditions. 14  
15  
16  
17
- (3) If the court amends the original decision or substitutes another decision for the original decision, the amended or substituted decision is, for this Act (other than this part) taken to be the decision of the Minister. 18  
19  
20

## **PART 7—EVIDENCE AND LEGAL PROCEEDINGS** 21

### *Division 1—Evidence* 22

- 76 Evidentiary aids** 23
- (1) This section applies to a proceeding under this Act. 24
- (2) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter— 25  
26
- (a) a stated document is one of the following things made, issued, given or kept under this Act— 27  
28

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(i) an accreditation, approval or decision;	1
(ii) a notice;	2
(iii) a report;	3
(iv) the register, or an extract from the register;	4
(b) a stated document is an approved operational plan for an overseas higher education institution;	5 6
(c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);	7 8
(d) an accreditation or approval issued or given under this Act—	9
(i) was or was not issued or given for a stated term; or	10
(ii) was or was not in force on a stated day or during a stated period; or	11 12
(iii) was or was not subject to a stated condition;	13
(e) on a stated day, an accreditation or approval issued or given under this Act was cancelled;	14 15
(f) on a stated day, a stated person was given a stated notice under this Act.	16 17
(3) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.	18 19 20 21
(4) In this section—	22
“ <b>approved operational plan</b> ”, for an overseas higher education institution, means an operational plan for the institution approved by the Minister, and includes the plan as changed under section 42.	23 24 25

*Division 2—Proceedings* 26

**77 Summary proceedings for offences** 27

(1) Proceedings for an offence against this Act must be taken in a summary way under the *Justices Act 1886*. 28  
29

(2) The proceeding must start— 30

(a) within 1 year after the commission of the offence; or 31

(b)	within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.	1 2 3
<b>78</b>	<b>Responsibility for acts or omissions of representatives</b>	4
(1)	This section applies in a proceeding for an offence against this Act.	5
(2)	If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—	6 7
(a)	the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and	8 9 10
(b)	the representative had the state of mind.	11
(3)	An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.	12 13 14 15 16
(4)	In this section—	17
	<b>“representative”</b> means—	18
(a)	for a corporation—an executive officer, employee or agent of the corporation; or	19 20
(b)	for an individual—an employee or agent of the individual.	21
	<b>“state of mind”</b> , of a person, includes—	22
(a)	the person's knowledge, intention, opinion, belief or purpose; and	23 24
(b)	the person's reasons for the intention, opinion, belief or purpose.	25
<b>79</b>	<b>Executive officers must ensure corporation complies with Act</b>	26
(1)	The executive officers of a corporation must ensure the corporation complies with this Act.	27 28
(2)	If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.	29 30 31 32

- Maximum penalty—the penalty for the contravention of the provision by an individual. 1  
2
- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision. 3  
4  
5  
6
- (4) However, it is a defence for an executive officer to prove— 7
- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence, the officer exercised reasonable diligence to ensure the corporation complied with the provision; or 8  
9  
10  
11
- (b) otherwise, the officer was not in a position to influence the conduct of the corporation in relation to the offence. 12  
13

## **PART 8—REGISTER**

14

- 80 Register to be kept** 15
- (1) The Minister must keep a register about— 16
- (a) approvals under part 3;<sup>4</sup> and 17
- (b) accredited courses; and 18
- (c) approvals under section 63. 19
- (2) The register may be kept in the way the Minister considers appropriate, including, for example, in an electronic form. 20  
21
- (3) The register must contain each of the following details for an approval under part 3— 22  
23
- (a) the name of the institution the subject of the approval; 24
- (b) the name and address of the holder of the approval; 25
- (c) the address of the premises at which the institution is approved to operate in Queensland; 26  
27

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4 Part 3 (Overseas higher education institutions)

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(d) the title of the course the institution is authorised to offer in Queensland under the approval;	1 2
(e) if the course is to be delivered by an agent of the institution—the name and address of the agent;	3 4
(f) the last day of the term of the approval;	5
(g) any other details prescribed under a regulation.	6
(4) The register must contain the following details for an accredited course—	7 8
(a) the name of the course;	9
(b) the last day of the term of accreditation of the course;	10
(c) the name and address of the holder of the accreditation;	11
(d) any other details prescribed under a regulation.	12
(5) The register must contain the following details for an approval under section 63—	13 14
(a) the name of the university the subject of the approval;	15
(b) the name and address of the holder of the approval;	16
(c) the name and address of the agent under the relevant agency arrangement;	17 18
(d) the address of the delivery place under the arrangement;	19
(e) the title of the higher education course the agent delivers in Queensland on behalf of the university under the arrangement;	20 21
(f) any other details prescribed under a regulation.	22
<b>81 Inspection of register</b>	23
The Minister must—	24
(a) keep the register open for inspection, on payment of the fee if any prescribed under a regulation, at the head office of the department by members of the public during ordinary office hours; and	25 26 27 28
(b) give a person a copy of the register, or a part of it, on payment of the fee prescribed under a regulation.	29 30

**PART 9—MISCELLANEOUS****82 Use of restricted title etc.**

(1) A person must not, in relation to an educational institution, educational facility, school, college or other place that delivers a course of education, use a restricted title unless it is a university.

Maximum penalty—200 penalty units.

(2) A person must not hold out an educational institution, educational facility, school, college or other place that delivers a course of education as being a university unless it is a university.

Maximum penalty—200 penalty units.

(3) This section does not apply to the educational institution known as ‘University of the Third Age’.

(4) In this section—

“**restricted title**” means a title that consists of, or includes, the word ‘university’.

**83 Protection from liability**

(1) The Minister does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to the Minister, the liability attaches instead to the State.

**84 Guidelines**

(1) The Minister may issue guidelines for this Act.

(2) Without limiting subsection (1), a guideline may give guidance about—

- (a) administrative matters relevant to applications under this Act; or
- (b) how an applicant for an application under this Act should deal with issues involved in the proper formulation of the application or supporting material related to the application; or
- (c) the type of information to be included in an annual report given under section 60.

- (3) A guideline may be replaced or varied by a later guideline issued under this section. 1  
2
- (4) The chief executive must keep a copy of a guideline, issued under this section, available for inspection and permit a person— 3  
4
- (a) to inspect the guideline without fee; and 5
- (b) to take extracts from the guideline without fee. 6
- (5) For subsection (4)— 7
- (a) a copy of the guideline— 8
- (i) must be kept at the head office of the department; and 9
- (ii) may be kept at any other place the chief executive considers appropriate; and 10  
11
- (b) the copy kept under paragraph (a) must be available for inspection during office hours on business days for the office or place. 12  
13  
14
- (6) Also, the chief executive must keep a copy of a guideline, issued under this section, available for supply to a person and permit a person to obtain a copy of the guideline, or a part of the guideline, without fee. 15  
16  
17
- (7) In addition, the chief executive must keep a copy of a guideline, issued under this section, posted on the department’s web site on the internet.<sup>5</sup> 18  
19  
20

## **85 Delegation by Minister** 21

(1) The Minister may delegate the Minister’s powers under this Act to an appropriately qualified person. 22  
23

(2) In this section— 24

“**appropriately qualified**” includes having the qualifications, experience or standing appropriate to exercise the power. 25  
26

*Example of standing—* 27

A person’s classification level in the department. 28

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5 The department’s web site address on the internet is [www.education.qld.gov.au](http://www.education.qld.gov.au)

<b>86 Annual report</b>	1
As soon as practicable after the end of each financial year, the Minister must prepare a report about the operation of this Act during that year and cause a copy of the report to be laid before the Legislative Assembly.	2 3 4
<b>87 Failure to decide application</b>	5
(1) This section applies if, under this Act, the Minister is taken to have decided to refuse to grant an application.	6 7
(2) To remove doubt, it is declared the Minister must as soon as practicable give the applicant an information notice about the decision.	8 9
<b>88 Approval of forms</b>	10
The Minister may approve forms for use under this Act.	11
<b>89 Regulation-making power</b>	12
(1) The Governor in Council may make regulations under this Act.	13
(2) Without limiting subsection (1), a regulation may be made about the following—	14 15
(a) fees for this Act, including—	16
(i) fees for the examination by the Minister, under section 25(3) or 30(4), of the operation or proposed operation of an overseas higher education institution in Queensland; and	17 18 19 20
(ii) fees for the examination by the Minister, under section 47(3), of the operation or proposed operation by a non-university provider for a higher education course; and	21 22 23
(iii) the refunding of fees;	24
(b) imposing a penalty of not more than 20 penalty units for a contravention of a regulation.	25 26

<b>PART 10—REPEAL AND TRANSITIONAL PROVISIONS</b>	1
<i>Division 1—Repeal</i>	2
<b>90 Repeal of Higher Education (General Provisions) Act 1993</b>	3
The Higher Education (General Provisions) Act 1993 No. 12 is repealed.	4
<i>Division 2—Transitional provisions</i>	5
<b>91 Definitions for div 2</b>	6
In this division—	7
“ <b>commencement</b> ” means commencement of this section.	8
“ <b>repealed Act</b> ” means the <i>Higher Education (General Provisions) Act 1993</i> .	9 10
<b>92 References to repealed Act</b>	11
In an Act or document, a reference to the repealed Act may, if the context permits, be taken as a reference to this Act.	12 13
<b>93 Existing proposal to be established or recognised as university in Queensland</b>	14 15
(1) A proposal made under the <i>Higher Education (General Provisions) Regulation 1996</i> , part 3 <sup>6</sup> and not decided before the commencement must be decided under this Act.	16 17 18
(2) The proposal is taken to be an application made under section 6.	19
(3) Part 2, other than sections 6(2)(c) and 19, <sup>7</sup> applies to the proposal.	20

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6 *Higher Education (General Provisions) Regulation 1996*, part 3 (Establishment or recognition of universities in Queensland)

7 Part 2 (Establishment of, or recognition as, university), sections 6 (Procedural requirements for application) and 19 (Review)

<b>94</b>	<b>Continuation of approval for foreign institution to operate as a university</b>	1 2
	(1) This section applies if, immediately before the commencement, an institution held an approval (the “ <b>current approval</b> ”) under section 6 <sup>8</sup> of the repealed Act.	3 4 5
	(2) The current approval is taken to be an approval (the “ <b>continuing approval</b> ”) under section 25(2).	6 7
	(3) If the current approval was, immediately before the commencement, subject to a condition, the continuing approval is taken to be subject to the condition.	8 9 10
	(4) The continuing approval continues until the day that is 1 year after the commencement.	11 12
	(5) However, subsection (4) stops applying if the continuing approval is cancelled.	13 14
	(6) Section 23 <sup>9</sup> does not apply to the holder of the continuing approval until—	15 16
	(a) the end of the period mentioned in subsection (4); or	17
	(b) if the holder of the continuing approval applies for its renewal under section 30 and the application is not decided within the period mentioned in subsection (4)—the end of the period mentioned in section 35. <sup>10</sup>	18 19 20 21
<b>95</b>	<b>Existing application for approval for foreign institution to operate as a university</b>	22 23
	(1) An application for an approval made under the <i>Higher Education (General Provisions) Regulation 1996</i> , part 4 <sup>11</sup> and not decided before the commencement must be decided under this Act.	24 25 26
	(2) The application is taken to be an application for an approval made under section 24.	27 28

8 *Higher Education (General Provisions) Act 1993*, section 6 (Limitation on operation in Queensland of foreign universities)

9 Section 23 (Operational plan to be available for inspection)

10 Section 35 (Approval taken to be in force while application is considered)

11 *Higher Education (General Provisions) Regulation 1996*, part 4 (Foreign universities in Queensland)

(3) Part 3, division 3, other than sections 24(2)(c) and 28, <sup>12</sup> applies to the application.	1 2
(4) If the Minister grants the application, section 23 does not apply to the holder of the approval during the term of the approval.	3 4
<b>96 Course accredited under s 10(2) of repealed Act</b>	5
(1) This section applies if a course was accredited under section 10(2) of the repealed Act and the accreditation (the “ <b>current accreditation</b> ”) has not been cancelled before the commencement.	6 7 8
(2) The current accreditation is taken to be an accreditation of the course (the “ <b>continuing accreditation</b> ”) under section 47(2).	9 10
(3) If the current accreditation was, immediately before the commencement, subject to a condition, the continuing accreditation is taken to be subject to the condition.	11 12 13
(4) The continuing accreditation continues until the last day of the term of the current accreditation.	14 15
(5) However, subsection (4) stops applying if the continuing accreditation is cancelled.	16 17
<b>97 Existing application for accreditation of course under s 10(2) of repealed Act</b>	18 19
(1) An application for accreditation of a course made under section 10(2) of the repealed Act and not decided before the commencement must be decided under this Act.	20 21 22
(2) The application is taken to be an application for accreditation of the course made under section 46.	23 24
(3) Part 4, division 2, other than section 46(2)(c), <sup>13</sup> applies to the application.	25 26

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12 Part 3 (Overseas higher education institutions), division 3 (Applications for approval), sections 24 (Procedural requirements for application) and 28 (Approval of operational plan)

13 Part 4 (Non-university providers), division 2 (Applications for accreditation), section 46 (Procedural requirements for application)

<b>98 Non-application of certain provisions to interstate non-university provider</b>	1 2
<b>(1)</b> This section applies to a higher education course—	3
(a) offered in Queensland immediately before the commencement by a non-university provider established in another State; and	4 5
(b) accredited or otherwise recognised under an Act of the other State.	6 7
<b>(2)</b> Sections 45 and 58 <sup>14</sup> do not apply in relation to the course for the period ending 1 year after the commencement (the “ <b>exemption period</b> ”).	8 9
<b>(3)</b> Subsection (4) applies if the governing body of the provider applies, under section 46, during the exemption period for the accreditation of the course.	10 11 12
<b>(4)</b> The non-application of the provisions mentioned in subsection (2) in relation to the course is taken to continue from the day it would, apart from this subsection, have ended until the applicant is given notice of the decision about the application.	13 14 15 16
<b>99 Non-application of certain provisions to interstate university</b>	17
<b>(1)</b> This section applies to an interstate university operating in Queensland, at the commencement, under an agency arrangement.	18 19
<b>(2)</b> Sections 61 and 71 <sup>15</sup> do not apply in relation to the university for the period ending 6 months after the commencement (the “ <b>exemption period</b> ”).	20 21 22
<b>(3)</b> Subsection (4) applies if the governing body of the university applies, under section 62, during the exemption period for the Minister’s approval to enable the university to operate, under an agency arrangement, in Queensland.	23 24 25 26
<b>(4)</b> The non-application of the provisions mentioned in subsection (2) in relation to the university is taken to continue from the day it would, apart from this subsection, have ended until the applicant is given notice of the decision about the application.	27 28 29 30

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14 Sections 45 (Limitation on operation of non-university provider) and 58 (Conferring of higher education award by non-university provider etc.)

15 Sections 61 (Limitation on operation of interstate university) and 71 (Conferring of higher education award by interstate university etc.)

<b>100 Appeals</b>	1
(1) Subsection (2) applies if—	2
(a) a person has appealed to the District Court under repealed section 16 before the commencement against a decision of the Minister under the repealed Act; and	3 4 5
(b) the appeal has not been decided before the commencement.	6
(2) The District Court may hear, or continue to hear, and decide the appeal under the repealed Act as if this Act had not commenced.	7 8
(3) Subsection (4) applies if—	9
(a) immediately before the commencement a person could have appealed to the District Court under the repealed section 16 against a decision of the Minister under the repealed Act; and	10 11 12
(b) the person has not appealed before the commencement.	13
(4) The person may appeal, and the District Court may hear and decide the appeal, under the repealed Act as if this Act had not commenced.	14 15
(5) For giving effect to its decision under subsection (2) or (4), the District Court may make the orders it considers necessary having regard to the provisions of this Act.	16 17 18
(6) In this section—	19
“ <b>District Court</b> ” includes a District Court judge.	20
“ <b>repealed section 16</b> ” means section 16 of the repealed Act.	21
<b>101 Offences</b>	22
(1) Proceedings for an offence against the repealed Act may be started or continued, and the provisions of the repealed Act necessary or convenient to be used in relation to the proceedings continue to apply, as if this Act had not commenced.	23 24 25 26

(2) For subsection (1), the *Acts Interpretation Act 1954*, section 20<sup>16</sup> applies, but does not limit the subsection. 1  
2

## **PART 11—AMENDMENT OF ACTS** 3

### **102 Consequential and other amendments of Acts** 4

Schedule 1 amends the Acts mentioned in it. 5

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16 *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.)

<b>SCHEDULE 1</b>	1
<b>CONSEQUENTIAL AND OTHER AMENDMENTS OF ACTS</b>	2 3
section 102	4
<b>CENTRAL QUEENSLAND UNIVERSITY ACT 1998</b>	5
<b>1 Schedule 2, definition “higher education award”—</b>	6
<i>omit, insert—</i>	7
‘ <b>“higher education award”</b> see the <i>Higher Education (General Provisions) Act 2003</i> , schedule 2.’	8 9
<b>DENTAL PRACTITIONERS REGISTRATION ACT 2001</b>	10
<b>1 Section 142—</b>	11
<i>omit, insert—</i>	12
<b>‘142 Use of title ‘doctor’</b>	13
‘(1) A registrant must not use the title of doctor unless the registrant uses the title followed by—	14 15
(a) the registrant’s name and the words ‘dentist’, ‘dental surgeon’ or ‘dental practitioner’; or	16 17
(b) for a specialist registrant, provisional specialist registrant, special purpose registrant or provisional special purpose registrant whose special activity involves the practice of a specialty—the registrant’s name and the restricted specialist title for the specialty.	18 19 20 21 22
Maximum penalty—500 penalty units.	23

## SCHEDULE 1 (continued)

‘(2) In this section—	1
“title” includes description and status.’.	2
<b>GRIFFITH UNIVERSITY ACT 1998</b>	3
<b>1 Schedule 2, definition “higher education award”—</b>	4
<i>omit, insert—</i>	5
‘ “higher education award” see the <i>Higher Education (General Provisions) Act 2003</i> , schedule 2.’.	6
	7
<b>JAMES COOK UNIVERSITY ACT 1997</b>	8
<b>1 Schedule 2, definition “higher education award”—</b>	9
<i>omit, insert—</i>	10
‘ “higher education award” see the <i>Higher Education (General Provisions) Act 2003</i> , schedule 2.’.	11
	12
<b>MEDICAL PRACTITIONERS REGISTRATION ACT 2001</b>	13 14
<b>1 Section 160—</b>	15
<i>omit, insert—</i>	16
<b>‘160 Use of title ‘doctor’</b>	17
‘(1) A health practitioner who does not hold a doctorate must not, in or in connection with the provision of a health service, use the title of doctor.	18
	19

## SCHEDULE 1 (continued)

Maximum penalty—500 penalty units.	1
‘(2) A health practitioner who holds a doctorate must not, in or in connection with the provision of a health service, use the title of doctor unless the health practitioner uses the title followed by—	2 3 4
(a) the health practitioner’s name; and	5
(b) initials or words indicating the doctorate held.	6
Maximum penalty—500 penalty units.	7
‘(3) In this section—	8
“health practitioner” means—	9
(a) a nurse, midwife, or other person authorised to practise nursing, under the <i>Nursing Act 1992</i> ; or	10 11
(b) a person registered under any of the following Acts—	12
• <i>Chiropractors Registration Act 2001</i>	13
• <i>Dental Technicians and Dental Prosthetists Registration Act 2001</i>	14 15
• <i>Medical Radiation Technologists Registration Act 2001</i>	16
• <i>Occupational Therapists Registration Act 2001</i>	17
• <i>Optometrists Registration Act 2001</i>	18
• <i>Osteopaths Registration Act 2001</i>	19
• <i>Pharmacists Registration Act 2001</i>	20
• <i>Physiotherapists Registration Act 2001</i>	21
• <i>Podiatrists Registration Act 2001</i>	22
• <i>Psychologists Registration Act 2001</i>	23
• <i>Speech Pathologists Registration Act 2001</i> ; or	24
(c) a person practising in another health-related field, other than a person registered under the <i>Dental Practitioners Registration Act 2001</i> or a registrant. <sup>17</sup>	25 26 27

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17 See the *Dental Practitioners Registration Act 2001*, section 142 (Use of title ‘doctor’).

## SCHEDULE 1 (continued)

“ <b>health service</b> ” means a service for maintaining, improving or restoring people’s health and wellbeing.	1 2
“ <b>title</b> ” includes description and status.’.	3
<b>QUEENSLAND UNIVERSITY OF TECHNOLOGY ACT 1998</b>	4 5
<b>1 Schedule 2, definition “higher education award”—</b>	6
<i>omit, insert—</i>	7
‘ <b>“higher education award”</b> see the <i>Higher Education (General Provisions) Act 2003</i> , schedule 2.’.	8 9
<b>UNIVERSITY OF QUEENSLAND ACT 1998</b>	10
<b>1 Schedule 2, definition “higher education award”—</b>	11
<i>omit, insert—</i>	12
‘ <b>“higher education award”</b> see the <i>Higher Education (General Provisions) Act 2003</i> , schedule 2.’.	13 14
<b>UNIVERSITY OF SOUTHERN QUEENSLAND ACT 1998</b>	15
<b>1 Schedule 2, definition “higher education award”—</b>	16
<i>omit, insert—</i>	17
‘ <b>“higher education award”</b> see the <i>Higher Education (General Provisions) Act 2003</i> , schedule 2.’.	18 19

## SCHEDULE 1 (continued)

<b>UNIVERSITY OF THE SUNSHINE COAST ACT 1998</b>	1
<b>1 Schedule 2, definition “higher education award”—</b>	2
<i>omit, insert—</i>	3
‘ <b>“higher education award”</b> see the <i>Higher Education (General Provisions) Act 2003</i> , schedule 2.’	4
	5
 <b>VETERINARY SURGEONS ACT 1936</b>	 6
<b>1 Section 24A—</b>	7
<i>omit.</i>	8

<b>SCHEDULE 2</b>	1
<b>DICTIONARY</b>	2
section 4	3
<b>“accepted representations”</b> —	4
(a) for part 3, division 5—see section 38(2); or	5
(b) for part 4, division 3—see section 54(2); or	6
(c) for part 5, division 3—see section 67(2).	7
<b>“accredit”</b> includes re-accredit.	8
<b>“accredited course”</b> means a course accredited under section 47.	9
<b>“agency arrangement”</b> means an arrangement between an interstate university and an educational institution established in Queensland under which the institution delivers a higher education course in Queensland on behalf of the university.	10 11 12 13
<b>“agent”</b> , under an agency arrangement, means the educational institution that delivers a higher education course under the arrangement.	14 15
<b>“appellant”</b> see section 72.	16
<b>“approved form”</b> means a form approved by the Minister under section 88.	17 18
<b>“AQF Register”</b> means the Register of Recognised Education Institutions and Authorised Accreditation Authorities in Australia established, under the Australian Qualifications Framework, by the Australian Qualifications Framework Advisory Board. <sup>18</sup>	19 20 21 22
<b>“Australian Qualifications Framework”</b> means the national framework of educational qualifications—	23 24
(a) approved by MCEETYA; and	25

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18 The AQF Register may be viewed at the web site at <http://www.aqf.edu.au>

## SCHEDULE 2 (continued)

(b) stated in the implementation handbook for that framework published by the Australian Qualifications Framework Advisory Board, as in force from time to time. <sup>19</sup>	1 2 3
<b>“Australian Qualifications Framework Advisory Board”</b> means the board by that name established by MCEETYA.	4 5
<b>“change day”</b> , for part 3, see section 20.	6
<b>“change notice”</b> , for part 3, see section 20.	7
<b>“delivery place”</b> , under an agency arrangement, means the place at which a higher education course is delivered under the arrangement.	8 9
<b>“description statement”</b> , for an application under section 6, see section 9(1).	10 11
<b>“executive officer”</b> , of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.	12 13 14 15
<b>“higher education award”</b> means—	16
(a) a degree, status, title or description of associate, bachelor, master or doctor; or	17 18
(b) any other award, if the course of study relating to it is classified as higher education in the course descriptions stated in the Australian Qualifications Framework.	19 20 21
<b>“higher education course”</b> means a course of study, the successful completion of which may lead to the conferral or award of a higher education award.	22 23 24
<b>“higher education institution”</b> means an educational institution that provides, or proposes to provide, a higher education course.	25 26
<b>“information notice”</b> , for a decision made by the Minister, is a notice stating the following—	27 28
(a) the decision;	29
(b) the reasons for the decision;	30

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19 The implementation handbook may be inspected during office hours on business days at the head office of the department or viewed at the web site at <http://www.curriculum.edu.au/aqfab.htm>

## SCHEDULE 2 (continued)

(c) that the person to whom the notice is given may appeal against the decision within 28 days;	1 2
(d) the way the person may appeal against the decision.	3
<b>“interstate university”</b> means a higher education institution established or recognised as a university under an Act of the Commonwealth, another State or a Territory, and listed in the AQF Register.	4 5 6
<b>“key details”</b> , for part 3, see section 20.	7
<b>“MCEETYA”</b> means the Ministerial Council on Education, Employment, Training and Youth Affairs.	8 9
<b>“national protocols”</b> means the document entitled ‘National protocols for higher education approval processes’ that was approved by MCEETYA on 31 March 2000. <sup>20</sup>	10 11 12
<b>“non-university provider”</b> means a person, other than a university or overseas higher education institution, that provides, or proposes to provide, a higher education course.	13 14 15
<b>“notice”</b> means written notice.	16
<b>“operate”</b> , for part 3, see section 20.	17
<b>“operational plan”</b> , for part 3, see section 20.	18
<b>“original decision”</b> see section 72.	19
<b>“overseas higher education institution”</b> means an educational institution that—	20 21
(a) is established and operates in a foreign country; and	22
(b) offers a course leading to an award recognised as a higher education award by the entity responsible for recognising higher education awards in the foreign country.	23 24 25
<b>“properly made submission”</b> see section 11(2).	26
<b>“register”</b> means the register kept under section 80.	27
<b>“show cause notice”</b> —	28
(a) for part 3, division 5—see section 37(1); or	29

<sup>20</sup> A copy of the document may be inspected during office hours on business days at the head office of the department.

## SCHEDULE 2 (continued)

- |  |          |
|--|----------|
| (b) for part 4, division 3—see section 53(1); or   | 1        |
| (c) for part 5, division 3—see section 66(1).  | 2        |
| <b>“show cause period”</b> —   | 3        |
| (a) for part 3, division 5—see section 37(2)(d); or  | 4        |
| (b) for part 4, division 3—see section 53(2)(d); or  | 5        |
| (c) for part 5, division 3—see section 66(2)(d).   | 6        |
| <b>“submission period”</b> see section 8(3)(f).  | 7        |
| <b>“university”</b> means a higher education institution—  | 8        |
| (a) that is—   | 9        |
| (i) established or recognised as a university under an Act; or   | 10       |
| (ii) an interstate university; or  | 11       |
| (b) that is—   | 12       |
| (i) established in a foreign country; and  | 13       |
| (ii) recognised as a university by the competent authority for the purpose in the foreign country; and | 14<br>15 |
| (iii) approved under part 3 to operate in Queensland; or   | 16       |
| (c) that is recognised under a regulation to be a university.  | 17       |