

Queensland



# HIGHER EDUCATION (GENERAL PROVISIONS) ACT 1993

Reprinted as in force on 21 April 1997  
(includes amendments up to Act No. 65 of 1996)

Reprint No. 1A \*

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the Office of the Queensland Parliamentary Counsel  
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\* Minor differences in style between this reprint and another reprint with the same number are due to the conversion to another software program. The content has not changed.

# Information about this reprint

This Act is reprinted as at 21 April 1997. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

# Queensland



## HIGHER EDUCATION (GENERAL PROVISIONS) ACT 1993

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# HIGHER EDUCATION (GENERAL PROVISIONS) ACT 1993

[as amended by all amendments that commenced on or before 21 April 1997]

**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**

## 1 Short title

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

## 2 Commencement

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

## 3 Definitions

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

*Higher Education (General Provisions) Act 1993*

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- (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.

#### **4 Minister may make inquiries to form certain opinions**

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

#### **5 Establishment of universities in Queensland**

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.

#### **6 Limitation on operation in Queensland of foreign universities**

(1) A university mentioned in section 3, definition "university", paragraph (b), 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.

#### **7 Limitation on use of "university" etc.**

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.

## **8 Limitation on conferring or using certain awards**

(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.

## **9 Universities as accrediting authorities**

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

**10 Minister as accrediting authority**

(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.

**11 Copies of accreditation procedures and criteria to be made available**

(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.

**12 Minister may examine non-university provider's operations**

(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.

### **13 Applications under s 10**

(1) Application for accreditation under section 10 must be made in accordance with the approved accreditation procedures mentioned in section 10(2).

(2) An applicant must pay the fee—

- (a) prescribed under a regulation; and
- (b) at the time prescribed under a regulation.

### **14 Decision on applications to be advised**

(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.

### **15 Amendment or revocation to be advised**

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.

## **16 Appeal against Minister's decision**

(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.

## **17 Annual report**

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.

## **18 Bodies may be excluded from operation of Act**

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

**19 Regulations**

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

## ENDNOTES

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 April 1997. Future amendments of the Higher Education (General Provisions) Act 1993 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	4 April 1996

## 5 List of legislation

### **Higher Education (General Provisions) Act 1993 No. 12**

date of assent 28 May 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 15 March 1996 (1996 SL No. 45)

as amended by—

### **Education (School Curriculum P–10) Act 1996 No. 65 ss 1–2, 52 sch 2**

date of assent 9 December 1996

commenced on date of assent

## 6 List of annotations

### **Applications under s 10**

s 13 amd 1996 No. 65 s 52 sch 2

### **Amendment of Education (General Provisions) Act 1989**

s 20 om R1 (see RA s 40)