EXPLANATORY STATEMENT

Determination of Fees (AUQA Audits) No. 1 of 2011

Issued by the authority of the Chief Commissioner of the Tertiary Education Quality and Standards Agency

Subject: Tertiary Education Quality and Standards Agency Act 2011
Determination of Fees (AUQA Audits) No. 1 of 2011

Authority

Subsection 158(1) of the Tertiary Education Quality and Standards Agency Act 2011 (the Act) allows TEQSA to determine, by legislative instrument, fees that TEQSA may charge for things done in the performance of its functions.

Subsection 158(3) of the Act further allows TEQSA to determine other matters relating to the payment of fees. In particular, paragraph 158(3)(b) of the Act permits TEQSA to determine the circumstances in which fees may be set off against another amount payable.

Subitem 30(1) of Part 7 of Schedule 3 of the Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Act 2011 (the Consequential Act) provides that, for the purposes of the Higher Education Support Act 2003, TEQSA may:

(a) complete an audit of a higher education provider that the Australian Universities Quality Agency (AUQA) started before the changeover time; or

(b) audit a higher education provider if AUQA had, before the changeover time, scheduled that audit to be carried out during 2011 or 2012.

For the purposes of item 30 of Part 7 of Schedule 3 of the Consequential Act, changeover time means the time before section 3 of the Act commenced.

Purpose and operation

The purpose of the instrument is to determine the fees that TEQSA may charge solely for the purpose of the completion, by TEQSA, of an audit of a higher education provider which AUQA had commenced or scheduled before the commencement of TEQSA’s operations.

AUQA was established in 2001 and was responsible for conducting quality assurance audits of all Australian universities and other higher education providers. AUQA conducted audits cyclically, with the first cycle of audits completed in 2007. Audits
conducted in AUQA’s second audit cycle (Cycle 2 Audits) began in 2008. With the transition of AUQA to TEQSA in 2011, a small number of Cycle 2 Audits will be completed by TEQSA.

The instrument also sets out the circumstances in which any amount a higher education provider had previously paid to AUQA towards the cost of such an audit may be set off against the fees payable to TEQSA by the higher education provider for completion of that audit by TEQSA.

The fees that TEQSA will charge have been set at the same level as the fees that are currently charged by AUQA for Cycle 2 Audits of higher education providers.

The instrument provides that where a higher education provider has already paid a fee to AUQA for a Cycle 2 audit which AUQA did not complete or commence (as the case may be), the amount of that fee will be deducted from the fees payable to TEQSA for the completion of that audit by TEQSA.

**Consultation**

The instrument will affect a small number of higher education providers who are scheduled for an audit by AUQA in the second half of 2011. To ensure that these providers are not adversely affected by the transition to TEQSA, TEQSA will adopt AUQA’s fee schedule.

The Australian Government has consulted extensively with higher education providers on the development of the Act and on arrangements for the transition to TEQSA. Providers were invited to review drafts of the Act and the Consequential Act and were also given the opportunity to make submissions to the Senate Committee on Education, Employment and Workplace Relations’ inquiry into the proposed legislation.

A further comprehensive fee instrument for TEQSA’s regulatory activities, including a Cost Recovery Impact Statement, will be developed in consultation with relevant stakeholders prior to TEQSA commencing its regulatory activities on 30 January 2012.

**Commencement**

This Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and will commence on the day after registration on the Federal Register of Legislative Instruments.