EXPLANATORY STATEMENT

Tertiary Education Quality and Standards Agency
(Register) Guidelines 2016

Issued by the authority of the Tertiary Education Quality and Standards Agency (TEQSA)

Subject: Tertiary Education Quality and Standards Agency
(Register) Guidelines 2016

Authority

Section 204 of the Tertiary Education Quality and Standards Agency Act 2011 (the Act) allows TEQSA to make, by legislative instrument, Register Guidelines that set out the information that TEQSA must include on the National Register of Higher Education Providers (National Register). Subsection 204(b) gives TEQSA the authority to include matters necessary or convenient for maintaining and establishing the National Register in the Register Guidelines.

Purpose and operation

Subsection 198(1) of the Act requires TEQSA to establish and maintain a register of higher education providers, known as the National Register of Higher Education Providers (National Register). The purpose of the instrument is to set out the information that TEQSA must enter on the National Register in respect of each registered higher education provider.

This instrument revokes the Tertiary Education Quality and Standards Agency (Register) Guidelines 2015 (Register Guidelines 2015), and removes the requirement for TEQSA to include decisions to reject applications for initial course accreditation on the National Register.

There are a number of reasons why TEQSA considered that removing a reference to these decisions from the Register Guidelines is appropriate:

a. It will give TEQSA the option of whether to include information on initial course accreditation rejections, rather than requiring it in every instance.

b. By providing TEQSA with the choice of whether to include this information on the National Register, the Register can provide a clearer picture of the quality of the provider, by removing potentially anomalous negative decisions about courses in which students have never been permitted to enrol.

c. It will reduce the burden on higher education providers by not requiring input on draft text to go on the National Register in every instance that a course accreditation is rejected.

d. By removing the risk to reputational damage by not including all course accreditation rejections, higher education providers may be more innovative with the courses they seek to accredit.
TEQSA still has discretion to include decisions to reject applications for initial course accreditation on the National Register, which can be considered on a case by case basis, as under subsection 198(4) of the Act, TEQSA may enter details on the National Register that are not contained in the Register Guidelines.

**Description of the provisions**

Section 4 of the instrument states the details TEQSA will enter on the National Register for each higher education provider registered by TEQSA.

Section 5 sets out the information TEQSA will enter on the National Register for each previously registered higher education provider whose registration has expired, been withdrawn, or been cancelled.

Section 6 contains a statement that TEQSA will enter on the National Register for each higher education provider with self-accrediting authority. The statement explains that courses accredited pursuant to a higher education provider's own self-accrediting authority will not be included on the National Register.

Section 7 states the details that TEQSA will enter on the National Register for each course of study accredited by TEQSA.

Section 8 states the details that TEQSA will enter on the National Register for each course of study previously accredited by TEQSA where the accreditation has expired or been cancelled.

Section 9 states the details that TEQSA will enter on the National Register for certain regulatory decisions. Section 9 also states when these details will be entered on the National Register.

**Consultation**

The *Tertiary Education Quality and Standards Agency (Register) Guidelines 2012* (Register Guidelines 2012) were the first Register Guidelines made by TEQSA. Details of the consultation process undertaken for the Register Guidelines 2012 can be found in the Explanatory Statement of that instrument.

In relation to the Register Guidelines 2013, TEQSA sent a consultation paper seeking feedback about TEQSA’s approach to public reporting on 20 March 2013 which included information on changing the Register Guidelines 2012 to include regulatory decisions, to the following:

a. State and Territory Ministers with responsibility for higher education; and
b. eight sector peak representative bodies: Universities Australia (UA), Council of Private Higher Education (COPHE), Australian Council for Private Education and Training (ACPET); TAFE Directors Australia (TDA); National Tertiary Education Union (NTEU); National Union of Students (NUS); Council of Australian Postgraduate Associations Incorporated (CAPA); and Council of International Students Australia (CISA)
The consultation paper was also posted on the TEQSA website on 19 March 2013 asking for submissions by 3 May 2013, and on 19 March 2013 an email was sent to each registered Higher Education Provider notifying them of the consultation paper’s availability and location. A total of 28 submissions were received and were considered when drafting the Register Guidelines 2013.

In relation to this instrument TEQSA sent a letter to the email addresses of five sector peak representative bodies, and sought feedback on the proposed change. The sector peak representative bodies consulted were: Universities Australia (UA), Council of Private Higher Education (COPHE), Australian Council for Private Education and Training (ACPET), TAFE Directors Australia (TDA) and the International Education Association of Australia (IEAA).

TEQSA did not receive any submissions in relation to the proposed change.

When drafting this instrument TEQSA also had regard to the Australian Qualifications Framework (AQF) developed by the Australian Qualifications Framework Council.

**Commencement**

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and will commence on 1 February 2016.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument

Subsection 198(1) of the Tertiary Education Quality and Standards Agency Act 2011 requires the Tertiary Education Quality and Standards Agency (TEQSA) to establish and maintain a register of higher education providers, known as the National Register of Higher Education Providers (National Register). The purpose of the instrument is to set out the information that TEQSA must enter on the National Register in respect of each registered higher education provider.

Human rights implications

The Instrument engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. In particular, this instrument has an effect on the provision of education services by higher education providers.

To the extent that the right to education is engaged, this right is promoted by the Legislative Instrument, as it promotes the accessibility of higher education by providing prospective students with clearer information about higher education providers in Australia.

Conclusion

This Instrument is compatible with human rights because it advances the protection of human rights.

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Professor Nicholas Saunders AO
Chief Commissioner

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Emeritus Professor Cliff Walsh
Commissioner

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Linley Martin
Commissioner

Tertiary Education Quality and Standards Agency