

EXPLANATORY STATEMENT

Tertiary Education Quality and Standards Agency Act 2011

Higher Education Standards Framework (Threshold Standards) 2015

Issued by the authority of the Minister for Education and Training.

Subject: *Tertiary Education Quality and Standards Agency Act 2011*
Making the second Higher Education Standards

Authority

Subsection 58(1) of the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act) provides that the Minister may, by legislative instrument, make standards that, together with the Research Standards (made under subsection 58(2)), comprise the Higher Education Standards Framework.

Subsection 58(3) of the TEQSA Act requires that the Minister must not make a standard unless:

- a draft of the standard has been developed by the Higher Education Standards Panel (the Panel) established under Part 9 of the TEQSA Act,
- the Minister has consulted with each of the following about the draft:
 - the Council consisting of the Ministers for the Commonwealth and each State and Territory responsible for higher education (known currently as the COAG Education Council)
 - the Research Minister (the minister responsible for the *Australian Research Council Act 2001*), and
 - TEQSA, and
- the Minister has had regard to the draft developed by the Panel, and any advice or recommendations received from the Panel or those other parties.

The Threshold Standards are a subset of the Higher Education Standards Framework specified under subsection 58(1) of the TEQSA Act. The following Threshold Standards are made, respectively, under paragraphs 58(1)(a) to (d), inclusive:

- the Provider Registration Standards
- the Provider Category Standards
- the Provider Course Accreditation Standards, and
- the Qualification Standards.

For the purposes of defining the Threshold Standards, individual standards statements in the revised framework are 'mapped' to the relevant Threshold Standard in section 58 by means of Table 1 at Item 3 of the legislative instrument.

The *Higher Education Standards Framework (Threshold Standards) 2015* revokes and replaces the *Higher Education Standards Framework (Threshold Standards) 2011* from 1 January 2017.

Purpose and Operation

The purpose of the legislative instrument is for the Minister to make a revised Higher Education Standards Framework (the Standards). By this legislative instrument the Minister makes the Standards under subsections 58(1)(a) to (d) inclusive of the TEQSA Act that set the requirements a higher education provider must meet – and continue to meet – in order to be registered by the Tertiary Education Quality and Standards Agency (TEQSA) to operate in Australia. They provide the basis for the regulation of registered higher education providers by TEQSA. The Standards ensure that the barrier to entry into the higher education sector is set sufficiently high to underpin and protect the quality and reputation of the sector as a whole. They also establish a baseline for operational quality and integrity from which all providers can continue to build excellence and diversity.

The Standards also serve other broader purposes in Australian higher education including:

- an articulation of the expectations for provision of higher education in Australia as:
 - a guide to the quality of educational experiences that students should expect
 - a reference for international comparisons of the provision of higher education
 - a reference for other interested parties, and
- a model framework which higher education providers can themselves apply for the internal monitoring, quality assurance and quality improvement of their higher education activities.

Role of the Higher Education Standards Framework for Students

Protection of the quality of the educational experience of students is of prime importance among the objects of the TEQSA Act and is central to the Standards. The Standards inform students and other interested parties of the expectations on higher education providers regarding the delivery of higher education in or from Australia. The Standards also enable and support prospective and enrolled students to make informed choices through specific requirements for the provision of comprehensive, timely, accurate and publicly-available information about a higher education provider's offerings and operations.

Consultation and Development of Revised Standards by the Higher Education Standards Panel

The Panel was established at the end of 2011 and began to review the initial higher education standards in early 2012, as required by the *Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Act 2011* (section 29).

In reviewing the initial standards, the Panel consulted widely over almost three years – a transparent, iterative consultation process with the higher education sector and other stakeholders, including state and territory governments and the Commonwealth Department of Education and Training. This included over 100 meetings with and presentations to interested higher education providers and other stakeholders, 15 Panel Communiques distributed to a mailing list numbering approximately 1200, three formal Calls for Comment that received a total of 230 written submissions and, finally, a public information session on the full proposed revised Standards.

The Panel concluded that while the initial standards cover issues of corporate and academic governance, course accreditation and qualifications, they do not provide adequate assurance of the quality of higher education learning, teaching and research.

The Panel delivered advice on a revised standards framework to the Minister for Education and Training on 19 December 2014. The Panel's advice included revisions to almost all of the standards statements in the initial standards, along with additional standards on teaching and learning, research and information that had not been made in the initial standards.

The revised standards framework has been developed in accordance with the principles set out in the Australian Government Guide to Regulation. It takes account of the Objects of the TEQSA Act (section 3). It has been designed to facilitate TEQSA's compliance with the three Basic Principles for Regulation articulated in the TEQSA Act (section 13):

- the principle of regulatory necessity
- the principle of reflecting risk, and
- the principle of proportionate regulation.

The revised framework has been structured to better align with the operational characteristics of a typical higher education provider. This is expected to make the various standards easier to apply for the purposes of providers' own internal monitoring, reporting and governance activities, as well as for TEQSA's regulatory processes. For example, some issues that may have been dealt with more than once in the initial framework – e.g. in both the *Provider Registration Standards* and the *Provider Course Accreditation Standards* – are covered only once in the revised framework.

As a result, it is expected that TEQSA will more readily be able to use internal reports and information produced during the normal course of providers' business, or published on provider websites, as evidence when assessing compliance with the Standards. In turn, this will see a reduction, over time, in the red tape burden on higher education providers that is attributable to TEQSA's administration of the Standards.

As required, the Minister has consulted with the COAG Education Council and with TEQSA about the draft Standards developed by the Panel. All states and territories and TEQSA endorsed the revised framework.

Commencement

Item 4 of the legislative instrument specifies that the revised standards framework takes effect from 1 January 2017. All applications for higher education provider registration or reregistration and all applications for course accreditation or reaccreditation lodged on or after this date will be assessed against the revised standards framework.

The application and savings provision at Item 5 notes that TEQSA will continue to assess any registration, reregistration, accreditation or reaccreditation applications made before 1 January 2017 against the requirements of the 2011 legislative instrument until a decision has been made.

Regulatory impact

The review of the initial higher education standards undertaken by the Higher Education Standards Panel was certified as having followed a similar process to that required for a Regulation Impact Statement. The change in regulatory burden to business, community organisations and individuals has been quantified using the Australian Government's *Regulatory Burden Measurement* framework.

The Office of Best Practice Regulation has agreed that implementation of the *Higher Education Standards Framework (Threshold Standards) 2015* will deliver a net reduction in annual regulatory burden of \$2.538 million (OBPR reference 17288).

Structure of the revised *Higher Education Standards Framework*

The standards framework consists of two parts:

Part A: Standards for Higher Education

This Part sets out the minimum acceptable requirements for the provision of higher education in or from Australia by higher education providers registered under the TEQSA Act.

The Standards for Higher Education are organised into seven 'Domains':

1. Student Participation and Attainment
2. Learning Environment
3. Teaching
4. Research and Research Training
5. Institutional Quality Assurance
6. Governance and Accountability
7. Representation, Information and Information Management

Part B: Criteria for Higher Education Providers

B1: Classification of Higher Education Provider Categories

B2: Seeking Authority for Self-Accreditation of Courses of Study

Each 'Domain' of the Standards is segmented into 'sections' and these sections in turn contain a number of 'Standards Statements'. These statements are the actual 'Standards'; the headings of the domains and sections are to assist in navigating the document only.

The first Domain of Part A (Student Participation and Attainment) covers the education-related experiences of students from admission through to attainment of a certified qualification(s) (or part thereof).

- The Standards in this Domain focus primarily on a course of study, but they apply equally to the completion of units of study.

The remainder of the Domains focus on the actions taken by the higher education provider to achieve the educational outcomes expected for students.

- The second Domain (Learning Environment) focuses on the nature and quality of the learning environment provided, whether physical, on or off campus, virtual or blended.
- The Standards for Teaching and for Research and Research Training (Domains 3 and 4) focus on the academic activities of the higher education provider that guide and facilitate learning and, in the case of research and research training, contribute to new knowledge.
- Domains 5 (Institutional Quality Assurance) and 6; (Governance and Accountability) focus on the mechanisms that are established by the higher education provider to assure itself of the quality of the higher education it provides and maintain effective governance of its operations (both academic and corporate governance).
- The final Domain (Representation, Information and Information Management) encompasses the higher education provider's representation of itself to prospective students and others, the provision of information to prospective and enrolled students to enable informed participation in their educational experience, and the information management systems that support the higher education provider's higher education operations.

The criteria in Part B are relevant to particular types of higher education providers, including classification as a “university” and providers seeking authority to self-accredit a course(s) of study that they deliver.

The standards framework incorporates the education-related elements of the *National Code of Practice for Providers of Education and Training to Overseas Students 2007* (established under the *Education Services for Overseas Students Act 2000*).

The Standards do not seek to encompass all areas of all providers’ activities, such as a provider’s engagement with its alumni. Nor do the Standards seek to directly address some aspects of the experience of students that are not realistically under the control of the provider, such as long-term career outcomes.

The Panel estimated that around half of the revised Standards are the result of re-writing or editing the existing standards. Around a quarter result from aligning the Standards with the requirements of the *National Code of Practice for Providers of Education and Training to Overseas Students*. The remainder are new, covering the previously mooted but undefined standards relating to learning, teaching, research and information management.

Definitions

Definitions are provided for the term “Higher Education Qualification” and the two related terms “Australian Higher Education Qualification” and “Overseas Higher Education Qualification”. These draw on the definition of “Higher Education Award” and its derivatives in section 5 of the TEQSA Act. The Standards, however, adopt the ‘qualification’ terminology of the *Australian Qualifications Framework*. Table 2 is intended to make explicitly clear to the casual reader the types of qualifications encompassed within higher education, which the Standards relate to.

Content of the Standards

Domain 1: Student Participation and Attainment

- Section 1.1 – Admission – covers the requirements that must be met by providers when admitting students, information that must be provided to students regarding a particular course of study before they enrol, ensuring admission policies are fairly and consistently applied and that admission arrangements are in writing, including any requirements that are specific to the course.
- Section 1.2 – Credit and Recognition of Prior Learning – requires credit transfer (advanced standing) and recognition of prior learning (RPL) to be policy based, to ensure the integrity of courses and qualifications.
- Section 1.3 – Orientation and Progression – outlines the requirements for orientation and progression to ensure students are successfully transitioned into institutions and that special needs are met for individual students.
- Section 1.4 – Learning Outcomes and Assessment – requires that learning outcomes are specified and assessment is consistent with the requirements of the learning outcomes.
- Section 1.5 – Qualifications and Certification – lists the requirements for qualifications and certification which are fundamentally based on the Australian Qualifications Framework (AQF).

Domain 2: Learning Environment

- Section 2.1 – Facilities and Infrastructure – identifies the requirements for teaching and learning facilities and infrastructure, including information technology, to ensure facilities are fit for purpose.
- Section 2.2 – Diversity and Equity – requires policies and processes to accommodate and promote diversity and equity among student populations, including Aboriginal and Torres Strait Islander students, be in place and actively monitored.
- Section 2.3 – Wellbeing and Safety – identifies the need for and imposes requirements in respect of a safe environment and the availability of appropriate support services to promote student wellbeing.
- Section 2.4 – Student Grievances and Complaints – lists the requirements for student grievance and complaints in the instance of dissatisfaction with institutional or learning experiences.

Domain 3: Teaching

- Section 3.1 – Course Design – identifies course design specifications, learning activities and learning resource requirements, consistent with the level of study; and the need for professional accreditation of courses where this is required in order for graduates to be eligible to practise.
- Section 3.2 – Staffing – sets out requirements for the availability, skills and knowledge of teaching staff.
- Section 3.3 – Learning Resources and Educational Support – outlines the need for appropriate educational support mechanisms, as well as adequate physical resources and infrastructure that are fit for purpose.

Domain 4: Research and Research Training

- Section 4.1 – Research – covers resources, ethics, supervision and admission policies needed for the conduct of research activity.
- Section 4.2 – Research Training – specifies the need to appropriately support research students, including through induction and adequate supervision.

Domain 5: Institutional Quality Assurance

- Section 5.1 – Course Approval and Accreditation – covers internal mechanisms to assure quality such as policies for course approvals, accreditation and delivery.
- Section 5.2 – Academic and Research Integrity – requires that policies are in place to deal with misconduct including cheating, plagiarism, misrepresentation and misuse of intellectual property and that these policies are actively administered to ensure the integrity of academic and research activity.
- Section 5.3 – Monitoring, Review and Improvement – requires that the quality of education offerings be continuously monitored and reviewed to maintain and enhance their quality and effectiveness, including a comprehensive review of each course of study at least every seven years.
- Section 5.4 – Delivery with Other Parties – identifies that the delivery of education by a third party must be quality assured and that the higher education provider remains accountable for the quality of all education delivered through third parties.

Domain 6: Governance and Accountability

- Section 6.1 – Corporate Governance – requires the entity to have a formally constituted governing body that includes independent members and sets out functions and obligations of the governing body.
- Section 6.2 – Corporate Monitoring and Accountability – requires the provider to demonstrate and the corporate governing body to assure themselves that the provider is operating effectively and sustainably, including in the areas of ongoing financial viability and risk management, having in place credible business plans and a strong compliance regime.
- Section 6.3 – Academic Governance – requires the entity to have processes and structures established and responsibilities assigned in relation to academic oversight to assure the quality of teaching, learning, research and research training.

Domain 7: Representation, Information and Information Management

- Section 7.1 – Representation – obliges a provider to represent itself accurately and in a manner that is not misleading and to assure all agency arrangements through the use of formal contracts.
- Section 7.2 – Information for Prospective and Current Students – sets out the types of information that must be available to prospective and enrolled students to support informed decision-making about the provider's higher education offerings.
- Section 7.3 – Information Management – specifies a range of information about the higher education provider that must be available to the general public and the need for accurate and up-to-date record keeping.

Part B1: Criteria for Classification of Higher Education Provider Categories

- Part B1 sets out the course offering, research and related characteristics a provider needs in order to be registered by TEQSA under the various provider categories available, namely: Higher Education Provider (the basic classification), Australian University, Australian University College, Australian University of Specialisation, Overseas University and Overseas University of Specialisation.

Part B2: Criteria for Seeking Authority for Self-Accreditation of Courses of Study

- Part B2 identifies the requirements a higher education provider must meet for TEQSA to grant it the authority to self-accredit some or all of its courses of study.

Application of the Standards for Internal Purposes by Higher Education Providers

The Standards are grounded in the core characteristics of the provision of higher education. In consequence, they are intended to be useful to higher education providers as a framework for internal monitoring of the quality of their higher education activities. The Standards encompass the matters that a higher education provider would ordinarily be expected to address in the course of understanding and monitoring its higher education activities and managing any associated risks. Each Standard represents an underlying area of risk(s) to be managed. This may entail a risk to the quality of education delivered, to the experiences of students in relation to a higher education provider, to the quality of learning outcomes on graduation, to the reputation of higher education in Australia or a combination of different types of risks.

From the standpoint of internal use by higher education providers, the Standards focus on aspects of a higher education provider's operations in different but inter-related ways. Domain 1 (Student Participation and Attainment) focuses primarily on the educational experience for students, while Domains 2-4 (Learning Environment, Teaching, and Research and Research Training) focus on the academic activities of the provider and the environments in which they occur. Together, Domains 1-4 address in specific ways a variety of risks to the quality of higher education and the experiences of students.

Domains 5 (Institutional Quality Assurance) and 6 (Governance and Accountability) are more overarching in nature. They encompass the ways in which a higher education provider would ordinarily maintain oversight of its higher education operations and be able to assure itself, in the normal course of its business, that the requirements of the Standards are being met. Deficiencies identified by a higher education provider in meeting these Standards would be expected to cause deeper examination of the provider's compliance with the Standards overall, guided by the risks that have been identified.

The principles set out in Domain 7 (Representation, Information and Information Management) underpin a provider's effective engagement with all of its internal and external stakeholders, including students and the general public.

Applicability of the Standards to Particular Higher Education Providers or Categories of Higher Education Provider

Under the TEQSA Act, registered higher education providers are obliged to meet and continue to meet the Threshold Standards. The Standards are applicable, irrespective of the category of provider. The Standards cover all modes of participation and delivery, and all categories of students.

Some elements of Part A will not apply to particular higher education providers. For example, Standards related to delivery arrangements between a registered higher education provider and third parties will not apply where no such arrangements exist. Similarly, the Research Standards are not applicable to higher education providers that do not undertake research. However, if research training is conducted, the Standards in sections 4.1 (research) and 4.2 (research training) both apply.

In accordance with the basic principles for regulation in the TEQSA Act, the revised Standards support TEQSA's continued use of a risk-based, targeted approach to determining the scope of assessment required. Providers with a sound history of higher education delivery and no significant compliance or risk concerns may benefit from a more limited assessment, requiring less evidence and information to be gathered at the time of application. Newer providers and those with compliance or risk concerns may be required to provide evidence against the full range of Standards.

Statement of Compatibility with Human Rights

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

Higher Education Standards Framework (Threshold Standards) 2015

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

The *Higher Education Standards Framework (Threshold Standards) 2015* (the Standards) sets out the requirements that a higher education provider must meet – and continue to meet – in order to be registered by the Tertiary Education Quality and Standards Agency (TEQSA) to operate in Australia as a provider of higher education.

The Standards are the basis for TEQSA's regulation of higher education providers in Australia. TEQSA assesses an organisation's compliance with the Standards when considering:

- an application to be registered as a new higher education provider
- an application from an existing higher education provider to be re-registered, in order to continue in this role (this is required at least every seven years)
- an application to accredit a new higher education course to be delivered by a registered higher education provider that does not have self-accrediting authority
- an application to re-accredit a higher education course that was previously accredited (required at least every seven years).

The Standards are also intended to provide a model framework for higher education providers to use in managing their own internal monitoring, quality assurance and quality improvement of their higher education activities.

The Standards are structured in two parts:

Part A – *Standards for Higher Education* – sets out the baseline acceptable requirements for the provision of higher education in or from Australia. It is broken into seven domains:

1. Student Participation and Attainment
2. Learning Environment
3. Teaching
4. Research and Research Training
5. Institutional Quality Assurance
6. Governance and Accountability
7. Representation, Information and Information Management

The first domain covers the requirements that must be met by providers when admitting students, information that must be available to students regarding a particular course of study before they enrol, and elements relating to the student experience, academic assessment and graduation.

Domains two, three and four focus on the requirements that a provider must meet in order to achieve the educational outcomes expected for students.

Domains five and six set out the basic requirements that an institution needs to have met to assure itself of the quality of its education and to maintain financial viability and

effective governance of its operations.

The final domain addresses how a provider represents itself to prospective students, and the provision of information to prospective and enrolled students.

Part B – *Criteria for Higher Education Providers* – describes the different higher education provider categories, including requirements that must be met for a provider to use the word ‘university’ in its title, or self-accredit a course or courses that it offers.

Human Rights Implications

This legislative instrument engages the following human rights:

- the right to education under Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)
- the right to freedom from discrimination under Article 2(2) of the ICESCR and Article 26 of the *International Covenant on Civil and Political Rights* (ICCPR)
- the right to just and favourable conditions of work under Article 7 of the ICESCR
- the right to privacy under Article 17 of the ICCPR, and
- the rights of persons with disabilities under Articles 24 and 9 of the *Convention on the Rights of Persons with Disabilities* (CRPD).

Right to Education

The legislative instrument engages the right to education, which is set out in Article 13 of the ICESCR. This right recognises the important personal, societal, economic and intellectual benefits of education. It requires education be available, safe, and appropriately resourced, dependent on the needs of the child. Article 13 specifically identifies that higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means.

Overall, the Standards will help to ensure the highest standards of quality will continue to be upheld in the provision of higher education in Australia. They will enable more efficient and targeted activity by TEQSA which will ensure that higher education institutions have more time and resources to devote to doing what they do best – delivering the highest quality teaching, learning and research. This will benefit both Australian and international students, as well as the broader Australian community and economy.

Right to freedom from discrimination

The legislative instrument engages the right to freedom from discrimination, set out in Article 2(2) of the ICESCR and Article 26 of the ICCPR. Sections 1.1 (Admission) and 2.2 (Diversity and Equity) ensure that students from all backgrounds are admitted using policies that are fairly applied, with the academic preparation they need to participate in their intended study, with student diversity accommodated, including the under-representation and/or disadvantage experienced by identified groups. Specific consideration is given to the needs of Aboriginal and Torres Strait Islander people in recruitment, admission, participation, and completion.

The legislative instrument promotes the right to freedom from discrimination. Students from low socioeconomic status families, students with disability and Aboriginal and Torres Strait Islander students are historically underrepresented in higher education and can face additional challenges in undertaking and completing courses as a result of disadvantage. Ensuring they have ready access to the range of additional supports either available or able to be funded through government and institutional equity programmes will help to reduce any additional barriers to achievement for students facing disadvantage. To the extent that the instrument permits differential treatment, through addressing the under-representation and/or

disadvantage experience by identified groups in section 2.2, this differential treatment is legitimate.

Right to just and favourable conditions of work

The legislative instrument also engages the right to just and favourable conditions of work contained in article 7 of the ICESCR, including rights to safe and healthy working conditions and equal opportunity for advancement.

The legislative instrument promotes the right to just and favourable conditions of work by requiring higher education providers to offer learning and research environments that are safe, ethical and promote student wellbeing; and that corporate and academic governance structures and policies ensure the academic and operational integrity of its activities. The Standards require that facilities – including facilities where external placements are undertaken – are fit for their educational and research purposes and accommodate the numbers of students and staff that use them, as well as their educational and research activities. These are issues and protections that impact not just students undertaking learning and research training but also the teachers, research supervisors and other institutional staff that support the learning process. In addition, section 4.2 (Research Training) requires research students to undertake specific training on occupational health and safety as part of their induction, promoting the right to safe and healthy working conditions.

Teachers and supervisors must have opportunities to review feedback on their teaching and research supervision and be supported in enhancing these activities. A higher education provider's governing body must develop and maintain an institutional environment in which freedom of intellectual inquiry is upheld and protected, where students and staff are treated equitably, and the wellbeing of students and staff is fostered. Taken together, these requirements promote a work and study environment that welcomes inquiry, is respectful of difference and promotes equal opportunity for advancement in learning and work.

Right to privacy

The legislative instrument engages the right to privacy. Article 17 of the ICCPR prohibits unlawful or arbitrary interferences with a person's privacy, family, home and correspondence. Collecting, using, storing, disclosing or publishing personal information amounts to an interference with privacy. Institutions must necessarily collect information about their students for a range of reasons – e.g. to manage admission (section 1.1), monitor progress (section 1.3 – Orientation and Progression), academic assessment (section 1.4 – Learning Outcomes and Assessment), monitor identified student subgroups to inform admission policies and improvement of teaching and support strategies (section 2.2) and to monitor the higher education provider's own performance (section 5.3 – Monitoring, Review and Improvement). Higher education providers will also come into possession of a wide range of additional information through their delivery and assessment of higher education and research training.

The legislative instrument promotes the right to privacy through the protection of personal and sensitive information. Section 7.3 (Information Management) requires providers to manage their information systems securely and confidentially as needed, in order to maintain accurate records and prevent unauthorised access to private or sensitive information. This includes information where unauthorised access may compromise academic or research integrity.

Rights of persons with disabilities

The legislative instrument engages the rights of people with disabilities to education and to access, on an equal basis with others, to the physical environment, transportation, information and communications under Articles 24 and 9 of the CRPD. States parties to the CRPD commit

to ensuring reasonable accommodation of individuals' requirements is provided and that effective individualised support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

The legislative instrument promotes the rights of people with disabilities by ensuring that higher education providers ensure their policies and operations take account of the specific needs of people with disability from a range of perspectives, including the academic and physical environments and student support needs. Sections 2.2 and 2.3 (Wellbeing and Safety) require higher education providers to ensure their policies and approaches to teaching and learning accommodate student diversity and that the nature and extent of support services available for students are informed by the needs of student cohorts, including mental health and disability. These requirements, along with existing requirements for education providers to comply with the Disability Standards for Education under the *Disability Discrimination Act 1992*, will help ensure higher education providers will adequately support students with disability to develop their knowledge, skills and talents to their own benefit and the benefit of the wider Australian community and economy on an equal basis with other students.

Conclusion

The Legislative Instrument is compatible with human rights because it advances the protection of human rights in the delivery of higher education in Australia. To the extent that it may limit human rights, these limitations are reasonable, necessary, and proportionate.

SIMON BIRMINGHAM, Minister for Education and Training