

## **EXPLANATORY STATEMENT**

### ***Tertiary Education Quality and Standards Agency (Quality of Research) Determination 2021***

#### **Purpose and Authority**

The *Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Act 2021* inserts a new section 59A into the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).

Subsection 59A(1) provides that, if TEQSA is considering the *Higher Education Standards Framework (Threshold Standards) 2021* (the Threshold Standards), to the extent they relate to research, either in relation to:

- a regulated entity that has applied to TEQSA for registration within the “Australian University” provider category;
- a registered higher education provider that has applied under section 38 to change to the “Australian University” provider category; or
- a registered higher education provider that is in the “Australian University” provider category (for example, in relation to deciding whether to renew the registration of a registered higher education provider as an “Australian University” under section 36 of the TEQSA Act, or in relation to compliance assessments undertaken under section 59 of the TEQSA Act);

then TEQSA must have regard to the quality of the research undertaken by the entity or provider.

In doing so, if an instrument is in force under subsection 59A(7), TEQSA must have regard to the matters determined in the instrument. TEQSA is authorised, by subsection 59A(4), to determine matters relating to the quality of research. Subsection 59A(7) provides that a determination made by TEQSA and approved by the Minister is a legislative instrument made by the Minister on the day on which the determination is approved.

This instrument specifies matters relating to the quality of research for the purposes of section 59A of the TEQSA Act.

The instrument complements new research quality criteria included in the Threshold Standards for the ‘Australian University’ category by providing clarity around the types of research quality indicators that TEQSA will have regard to in relation to an entity or provider.

#### **Commencement**

The instrument commences on the same date that Schedule 1, Part 1 of the *Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Act 2021* comes into effect, to be fixed by proclamation.

## Consultation

TEQSA published a consultation paper on the TEQSA website, including a list of matters proposed to be included in the instrument, asking for submissions by 28 April 2021. A total of 42 submissions were received and considered when drafting the instrument.

Submissions generally supported TEQSA's efforts to publicly set down relevant considerations for research quality assessment. Many submissions suggested the following changes to the instrument:

- a. giving greater prominence to Excellence for Research in Australia (ERA).
- b. including further measures to consider the public or social impact of research.
- c. broadening types of research output captured, including submissions suggesting:
  - (i) that the instrument should provide for consideration of all types of research outputs in light of a view that citation metrics are less relevant for Humanities and Social Sciences and some other disciplines.
  - (ii) that research translation, commercialisation outcomes and industry connections should be included in the types of research outputs considered, to reflect other government priorities and support policy coherence across the Commonwealth.
- d. that consideration of numerical outputs should be scaled according to the size of a regulated entity or its mission.
- e. The inclusion of a glossary to define key terms such as "research community", "researcher", "engaged", "relationship" regarding the regulated entity, and "current or recent".
- f. clarification of the scope of research evaluations which would be considered, with particular queries about a reference to "comparable" evaluations to ERA in the draft list of matters for inclusion in the determination.
- g. the need for the instrument to reflect the national and international nature of research in framing references to a research community.

After considering the submissions, TEQSA has made the following changes to the determination:

- a. referencing ERA as the first listed matter, to reflect its significance for research evaluation in Australia.
- b. clarifying references to research outputs, to allow for appropriate flexibility in considering the profile of research in particular fields or institutions.
- c. adding a reference to the Engagement and Impact assessment, to reflect the importance of that assessment in research evaluation.
- d. stating that outcomes from the prevailing practices for the measurement of research quality in a particular discipline will be considered.
- e. clarifying that time spent by researchers on research at a regulated entity, and the extent to which those researchers are engaged in research at that entity, will be considered.
- f. making explicit reference to engagement with the national/international research community.

The public and social impact of research will also be relevant to assessments of criterion B1.3.13 in the Threshold Standards, which requires the demonstration of strong civic leadership, engagement with local and regional communities, and a commitment to social responsibility.

While TEQSA also considered the inclusion of definitions for other terms in the determination, TEQSA concluded that the relevant terms have a generally accepted plain language meaning and do not require specific definitions.

Submissions also raised broader issues about TEQSA's approach to assessing research. These included questions about how TEQSA will map fields of research and fields of education, whether the determination would lead to the duplication of existing data collections, whether TEQSA would provide a pathway for prospective entrants to the Australian University category to undertake an ERA-like assessment, and TEQSA's approach to collecting information about the matters in the determination.

These broader issues go beyond the purpose of the determination, which is to describe matters which TEQSA must consider when assessing the quality of research at a regulated entity. However, TEQSA will continue to work closely with the higher education sector to ensure that its approach to assessments covered by the determination is clear and avoids duplication. TEQSA will place particular emphasis on existing assessments (including ERA) and data collections, and will calibrate its approach to each regulated entity by reference to the entity's maturity and risk profile.

## **Description of the provisions**

Sections 1 to 3 of the Determination are formal provisions providing for the name, commencement and authority of the Determination.

Section 1 states the name of the Determination as the *Tertiary Education Quality and Standards Agency (Quality of Research) Determination 2021*.

Section 2 provides for the Determination to commence on the same date that provisions of the *Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Bill 2020* come into effect.

Section 3 states that the Determination is made under section 59A of the TEQSA Act.

Section 4 sets out definitions for the purposes of the instrument, including definitions of Excellence in Research for Australia and Engagement and Impact Assessment.

The specific matters to which TEQSA may have regard when assessing the quality of research at a regulated entity are set out in Section 5 of the instrument at paragraphs 5(a) to (f). These include matters such as results from the ERA and the Engagement and Impact Assessment, volume of citations and quality of publications, the nature of any peer review processes, outcomes of the measurement of research quality in a particular discipline, the governance framework for research employed by the regulated entity, the extent to which there is a research community at the regulated entity and the success of the regulated entity in competitive research grant rounds.

## **Statement of Compatibility with Human Rights**

### ***Tertiary Education Quality and Standards Agency (Quality of Research) Determination 2021***

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 purpose of the *Tertiary Education Quality and Standards Agency (Quality of Research) Determination 2021* (the Determination) is to specify matters relating to research quality benchmarks in the ‘Australian University’ category that TEQSA must have regard to for the purposes of section 59A of the TEQSA Act.

#### **Human rights implications**

##### ***Right to education***

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. The right to education recognises the important personal, societal, economic and intellectual benefits of education.

Amendments made to the Threshold Standards by the *Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Bill 2020* clearly articulate the requirements for an entity to be categorised as a particular type of higher education provider. These amendments will help to ensure a diverse and high-quality education sector that meets the needs of students, employers, higher education providers and the wider community. The Determination provides further certainty for the sector about benchmarks for the quality of research that TEQSA will have regard to in assessing research activity under relevant provisions of the TEQSA Act.

#### **Conclusion**

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