



New South Wales

# Higher Education Amendment Act 2008 No 14

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New South Wales

# Higher Education Amendment Act 2008 No 14

Act No 14, 2008

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An Act to amend the *Higher Education Act 2001* as a consequence of amendments to the *National Protocols for Higher Education Approval Processes* that have been approved by the Ministerial Council on Education, Employment, Training and Youth Affairs; and for other purposes. [Assented to 16 May 2008]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Higher Education Amendment Act 2008*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Amendment of Higher Education Act 2001 No 102**

The *Higher Education Act 2001* is amended as set out in Schedule 1.

**4 Repeal of Act**

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 3 Definitions

Omit the definitions of *Australian university*, *degree* and *National Protocols* from section 3 (1).

Insert instead in alphabetical order:

*Australian university* means an education institution listed in Part 1 or 2 of Schedule 1.

*degree* includes a degree of any kind, including an associate degree and, in particular, the degrees of doctor, master and bachelor.

*National Protocols* means the *National Protocols for Higher Education Approval Processes* (as approved by the Ministerial Council on Education, Employment, Training and Youth Affairs on 7 July 2006), as in force from time to time, and includes any guidelines established under those Protocols.

### [2] Section 4

Omit the section. Insert instead:

#### 4 Australian universities

- (1) On the recommendation of the Minister, the Governor may, by proclamation published in the Gazette, amend Schedule 1 so as:
  - (a) to include the name of an education institution in Part 1 or 2 of that Schedule, or
  - (b) to vary the name of an education institution listed in Part 1 or 2 of that Schedule as a consequence of any change in its corporate name, or
  - (c) to omit the name of an education institution from Part 1 or 2 of that Schedule.
- (2) A recommendation to include the name of an education institution in Part 1 of Schedule 1 may be given only in relation to an education institution that is established or recognised as a university:
  - (a) by an Act of the Commonwealth, or
  - (b) by an Act of this or some other State or Territory.

- (3) A recommendation to omit the name of an education institution from Part 1 of Schedule 1 may be given only in relation to an education institution that is no longer established or recognised as a university by an Act referred to in subsection (2) (a) or (b).
- (4) In deciding whether to make a recommendation:
  - (a) to include the name of an education institution in Part 2 of Schedule 1, or
  - (b) to vary the name of an education institution listed in Part 2 of Schedule 1, or
  - (c) to omit the name of an education institution from Part 2 of Schedule 1,the Minister must have regard to the National Protocols, any guidelines made for the purposes of section 19 (1) (a) and any regulations made for the purposes of section 25 (1) (a).
- (5) A proclamation is not invalid only because of a failure of the Minister to comply with the requirements of subsection (4).

**[3] Section 5 Registration of higher education institutions and overseas universities**

Insert “as an Australian higher education institution” after “section” in section 5 (4).

**[4] Section 5 (5A)**

Insert after section 5 (5):

- (5A) In deciding whether to register an education institution, or what conditions to impose on its registration, the Director-General must have regard to the National Protocols.

**[5] Section 7 Accreditation of higher education courses**

Insert “or may authorise the institution to accredit any such course” after “higher education course” in section 7 (1).

**[6] Section 7 (1A)**

Insert after section 7 (1):

- (1A) In deciding whether to authorise an education institution to accredit any courses to be provided by the institution, the Director-General must have regard to the National Protocols.

**[7] Section 7 (2), (3) and (4)**

Insert “or institution, as the case requires,” after “Director-General” wherever occurring.

**[8] Section 7 (3A)**

Insert after section 7 (3):

- (3A) In deciding whether to accredit a course of study, or what conditions to impose on its accreditation, the Director-General or institution, as the case requires, must have regard to the National Protocols.

**[9] Section 14 Unlawful provision of higher education courses**

Omit section 14 (b). Insert instead:

- (b) in the case of a course provided otherwise than by an Australian university:
- (i) the course is accredited under Division 2 in relation to the institution, or
  - (ii) if the institution is an overseas university or higher education institution, the course is approved in accordance with the National Protocols.

**[10] Section 15 Unlawful conferral of higher education qualifications**

Omit section 15 (1) (c). Insert instead:

- (c) in the case of a degree or post-graduate qualification conferred, otherwise than by an Australian university, in connection with a person's successful completion of a higher education course:
- (i) the course was or is, as the case requires, accredited under Division 2 in relation to the institution, or
  - (ii) if the institution was or is an overseas university or higher education institution, the course was or is, as the case requires, approved in accordance with the National Protocols.

**[11] Section 18 Register of higher education institutions**

Omit "accredited in relation to an education institution as a higher education course under Division 2" from section 18 (1) (b).

Insert instead "accredited by the Director-General under Division 2 in relation to an education institution".

**[12] Section 19 Administrative guidelines**

Omit section 19 (1) (a). Insert instead:

- (a) the procedure for assessing a proposal to recommend the making of a proclamation under section 4 (1),

**[13] Section 25 Regulations**

Omit section 25 (1) (a). Insert instead:

- (a) the procedure for assessing a proposal to recommend the making of a proclamation under section 4 (1),

**[14] Section 25 (1) (i)**

Omit “on”. Insert instead “of”.

**[15] Schedule 1 Australian universities**

Insert at the beginning of the Schedule:

**Part 1 Universities established or recognised by an Act**

**[16] Schedule 1**

Omit “Victoria University of Technology” from the matter appearing under the heading **Victoria**.

Insert instead “Victoria University”.

**[17] Schedule 1**

Omit “Northern Territory University” from the matter appearing under the heading **Northern Territory**.

Insert instead “Charles Darwin University”.

**[18] Schedule 1**

Insert at the end of the Schedule:

**Part 2 Universities established or recognised otherwise than by an Act**

**[19] Schedule 3 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Higher Education Amendment Act 2008*

[Second reading speech made in Legislative Council on 9 April 2008  
Agreement in principle speech made in Legislative Assembly on 9 May 2008]

BY AUTHORITY