

# Higher Education Act 1988 No 12

[1988-12]



New South Wales

## Status Information

### Currency of version

Repealed version for 25 March 1994 to 30 June 2003 (accessed 18 July 2024 at 3:33)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by the [Higher Education Act 2001 No 102](#), sec 26 with effect from 1.7.2003.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Higher Education Act 1988 No 12



New South Wales

An Act to repeal the *Higher Education Act 1975* so as to abolish the Higher Education Board; and to continue certain provisions of that Act relating to higher education.

## 1 Name of Act

This Act may be cited as the *Higher Education Act 1988*.

## 2 Commencement

This Act commences on a day to be appointed by proclamation.

## 3 Advanced education courses

(1) In this section:

**authorised officer** means the Executive Director of the Ministry of Education and Youth Affairs.

(2) The authorised officer may, by order:

- (a) approve a course of study as an advanced education course (generally or in relation to any particular institution), and
- (b) determine the nomenclature of the academic award to be granted on completion of any such advanced education course.

(3) The authorised officer may delegate to an officer of the Ministry of Education and Youth Affairs the power to make an order under this section.

(4) The authorised officer may delegate to an institution:

- (a) with the approval of the Minister—the power to make an order under this section in relation to the institution, or
- (b) any function associated with the making of such an order (including the assessment of the suitability of courses of study as advanced education courses).

(5) The regulations may make provision for or with respect to the making of orders under this section and, in particular, the assessment of the suitability of courses of study as

advanced education courses.

- (6) The authorised officer may, for the purposes of this section, establish committees of suitably qualified persons to advise the authorised officer.

#### **4 Offences relating to unofficial universities etc**

- (1) In this section:

**Australian institution** means:

- (a) a corporation incorporated in Australia, or
- (b) an unincorporated body of persons associated together in Australia, or
- (c) any other institution established in Australia.

**degree** means a degree that evidences academic distinction.

**official university or college of advanced education** means a university or college of advanced education:

- (a) established by an Act or Ordinance of the Commonwealth, a State or a Territory, or
- (b) established by an instrument made under an Act or Ordinance of the Commonwealth, a State or a Territory, being an Act or Ordinance relating to the establishment of universities or colleges of advanced education generally, or
- (c) established by the Government of the Commonwealth, a State or a Territory, or
- (d) authorised by an Act or Ordinance of the Commonwealth, a State or a Territory to be called a university or a college of advanced education.

- (2) A person who represents that an Australian institution is a university or a college of advanced education is guilty of an offence unless it is an official university or college of advanced education.

Maximum penalty: 5 penalty units.

- (3) A person who represents that an Australian institution has conferred, or will or may confer, a degree is guilty of an offence unless:
- (a) the degree was or is to be conferred by or on behalf of an official university or college of advanced education, or
  - (b) the degree evidences the completion of an advanced education course approved under this Act, or
  - (c) the degree was or is to be conferred by or on behalf of a corporation, body or institution approved by the regulations for the purposes of this section.

Maximum penalty: 5 penalty units.

- (4) For the purposes of this section, a person represents that a state of affairs exists if the person does or says anything, or causes or allows anything to be done or said, by which it is represented, or by which a belief may be induced, that the state of affairs exists.

#### **4A Annual reports by private institutions providing advanced education courses**

- (1) An institution that provides an advanced education course approved under this Act is required to provide the Minister with an annual report relating to the provision of the course for presentation to Parliament.
- (2) Any such report is to be provided:
  - (a) as soon as practicable after 1 January (but on or before 30 June) in each year, and
  - (b) in such manner as the Minister directs.
- (3) If an institution fails to comply with this section the approval of the advanced education course in relation to the institution may be revoked under this Act.
- (4) This section does not apply to an institution which is required to report under the *Annual Reports (Statutory Bodies) Act 1984* or the *Annual Reports (Departments) Act 1985*.

#### **4B Approval to conduct courses for overseas students**

- (1) The object of this section is to provide for the approval of official universities (within the meaning of section 4) as the basis for their registration under the Commonwealth Act.
- (2) The Executive Director of the Ministry of Education and Youth Affairs may approve an official university (within the meaning of section 4) to provide courses of education or training to overseas students (within the meaning of the Commonwealth Act).
- (3) The approval may be granted unconditionally or subject to such conditions (which may be imposed when the approval is granted or at any later time) as the Executive Director determines.
- (4) The Executive Director may vary, withdraw or suspend the approval and may vary or revoke any condition to which it is subject.
- (5) In this section, **the Commonwealth Act** means the *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991* of the Commonwealth.

## 5 Proceedings for offences

Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

## 6 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

## 7 Repeal of [Higher Education Act 1975 No 47](#)

The [Higher Education Act 1975](#) is repealed.

## 8 Abolition of Higher Education Board

The New South Wales Higher Education Board constituted under the [Higher Education Act 1975](#) is abolished.

## 9 Savings and transitional provisions

Schedule 1 has effect.

# Schedule 1 Savings and transitional provisions

(Section 9)

## Part 1 General

### 1 Definition

In this Schedule:

**Higher Education Board** means the New South Wales Higher Education Board constituted under the [Higher Education Act 1975](#).

### 2 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the following enactments:

This Act

*Miscellaneous Acts (Higher Education) Amendment Act 1988*

Schedule 2 to the [Vocational Education and Training Accreditation \(Amendment\) Act 1993](#)

- (2) Any such provision may, if the regulations so provide, take effect from the commencement of the Act concerned or a later day.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

## **Part 2 Provisions consequent on abolition of Higher Education Board**

### **3 Members of Higher Education Board**

- (1) A person who, immediately before the commencement of this Act, held office as a member of the Higher Education Board:
  - (a) ceases to hold office as such on that commencement, and
  - (b) is not entitled to any remuneration or compensation because of the loss of that office.
- (2) Nothing in this Act affects any arrangement for the appointment of any such person to a position in the service of the Government.

### **4 Transfer of assets, liabilities etc of Board**

On and from the commencement of this Act, any assets, rights, liabilities or obligations of the Higher Education Board shall become assets, rights, liabilities or obligations of the Crown in right of the State.

### **5 Construction of references**

A reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to:

- (a) the Higher Education Board or the Chairman or any member of that Board, or
- (b) the New South Wales Advanced Education Board, the New South Wales Higher Education Authority or the New South Wales Universities Board or the Chairman or any member of either of those Boards or of that Authority,

shall be read as a reference to the Secretary of the Ministry of Education and Youth Affairs.

## **6 Saving of existing approvals of advanced education courses**

An order or a determination made by the Higher Education Board and in force immediately before the abolition of that Board (being an order approving a course of study as an advanced education course or a determination of the nomenclature of the academic award to be granted on completion of the course) shall be taken to be an order under section 3.

## **7 Saving of existing approvals of institutions etc conferring degrees**

A corporation, body or institution approved for the purposes of section 14 of the *Higher Education Act 1975* immediately before the commencement of this Act shall (subject to the regulations) be taken to be a corporation, body or institution approved by the regulations for the purposes of section 4 of this Act.

## **Part 3 Approvals to provide courses to overseas students**

### **8 Deemed approval**

- (1) An official university (within the meaning of section 4) registered or purportedly registered under the Commonwealth Act immediately before the commencement of Schedule 2 to the *Vocational Education and Training Accreditation (Amendment) Act 1993* to provide courses to overseas students is taken to have been approved under section 4B of this Act to provide those courses.
- (2) In this clause, **overseas student** and **the Commonwealth Act** have the same meanings as in section 4B.