Higher Education Legislation Amendment (2007 Measures No. 1) Act 2007

No. 72, 2007

An Act to amend the law relating to higher education, and for related purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

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Higher Education Legislation Amendment (2007 Measures No. 1) Act 2007

No. 72, 2007

An Act to amend the law relating to higher education, and for related purposes

[*Assented to 28 May 2007*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Higher Education Legislation Amendment (2007 Measures No. 1) Act 2007*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	28 May 2007
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 2	The day on which this Act receives the Royal Assent.	28 May 2007
4. Schedule 3, item 1	The day on which this Act receives the Royal Assent.	28 May 2007
5. Schedule 3, items 2 to 6	1 January 2008.	1 January 2008
6. Schedules 4 to 10	The day on which this Act receives the Royal Assent.	28 May 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Approval and accreditation of higher education providers

Higher Education Support Act 2003

1 Subsection 3-5(2)

Omit "self-accrediting providers or non self-accrediting providers", substitute "self-accrediting entities or non self-accrediting entities".

1A Section 3-25

Repeal the section, substitute:

3-25 Provision of higher education in the external Territories (Chapter 6)

Chapter 6 primarily provides for approval of universities, self-accrediting entities and non self-accrediting entities to operate in external Territories, and for accreditation of courses of study in those Territories.

2 Section 8-1

Omit "self-accrediting providers and non self-accrediting providers", substitute "self-accrediting entities and non self-accrediting entities".

3 Section 13-1

Omit "self-accrediting providers", substitute "self-accrediting entities".

4 Subsection 16-25(1)

Omit "(1)".

5 Paragraph 16-25(1)(b)

Repeal the paragraph, substitute:

(b) the body is:

(i) an *Australian university; or

(ii) a *self-accrediting entity; or

(iii) a *non self-accrediting entity; and

6 Paragraph 16-25(1)(d)

Repeal the paragraph, substitute:

(d) the body is in a State or Territory that the Minister is satisfied has legislation that complies with the *National Protocols; and

(da) the body offers at least one *course of study that leads to a *higher education award; and

(db) if the body is a self-accrediting entity:

(i) the body is authorised by a *government accreditation authority to accredit that course; or

(ii) the course is an *accredited course; and

(dc) if the body is a non self-accrediting entity—the course is an accredited course; and

7 Subsections 16-25(2), (3) and (4)

Repeal the subsections.

8 Section 16-35

Repeal the section.

9 Paragraphs 19-15(2)(a) and (b)

Repeal the paragraphs, substitute:

(a) the provider meets the requirements of section 19-20; and

(b) if the provider is not a *Table A provider—the provider meets the requirements of section 19-25; and

(c) if the provider is a Table A provider—the provider meets the requirements of section 19-27.

10 Section 19-20

Omit "(other than a *Table A provider)".

Note: The heading to section 19-20 is altered by omitting "**(other than Table A provider)**".

11 Paragraph 19-20(a)

Repeal the paragraph, substitute:

(a) be assessed, by a *government accreditation authority, as meeting the relevant requirements set out in the *National Protocols; and

12 Paragraph 19-20(b)

Omit "an authorised accreditation authority listed on the Australian Qualifications Framework Register", substitute "a government accreditation authority".

13 After section 19-75

Insert:

19-77 Notice of events affecting accreditation

A higher education provider must by writing inform the Minister of any event affecting:

(a) the provider; or

(b) a *related body corporate of the provider;

that relates to:

(c) the provider's authority to accredit *courses of study leading to *higher education awards; or

(d) the accreditation by a *government accreditation authority, of such courses offered by the provider.

14 Paragraph 22-7(b)

Omit "16-25(1)(aa)", substitute "16-25(aa)".

15 Paragraph 22-10(1)(a)

Omit "a *university", substitute "an *Australian university".

Note 1: The heading to section 22-10 is replaced by the heading "**Revocation of approval if status or accreditation changes**".

Note 2: The heading to subsection 22-10(1) is replaced by the heading "*Bodies that cease to be Australian universities*".

16 Paragraph 22-10(1)(b)

Omit "a university", substitute "an Australian university".

17 Paragraph 22-10(2)(a)

Omit "provider" (first occurring), substitute "entity".

Note: The heading to subsection 22-10(2) is replaced by the heading "*Bodies that cease to be self-accrediting entities*".

18 Paragraph 22-10(2)(b)

Omit "provider", substitute "entity".

19 After subsection 22-10(2)

Insert:

Self-accrediting entities that cease to have authority to accredit courses

(2A) The Minister may revoke a body's approval as a higher education provider if:

(a) the body was a *self-accrediting entity at the last time the body became a higher education provider; and

(b) the body is no longer authorised by a *government accreditation authority to accredit a *course of study that the body was authorised to accredit at that time; and

(c) the Minister complies with the requirements of section 22-20.

20 Paragraph 22-10(3)(a)

Omit "provider" (first occurring), substitute "entity".

Note: The heading to subsection 22-10(3) is replaced by the heading "*Bodies that cease to be non self-accrediting entities*".

21 Paragraph 22-10(3)(b)

Omit "provider", substitute "entity".

22 At the end of section 22-10

Add:

Bodies offering courses that cease to be accredited courses

(4) The Minister may revoke a body's approval as a higher education provider if:

(a) the body was a *self-accrediting entity or a *non self-accrediting entity at the last time the body became a higher education provider; and

(b) a *course of study offered by the body that was an *accredited course ceases to be an accredited course; and

(c) the Minister complies with the requirements of section 22-20.

23 Paragraph 104-10(1)(b)

Repeal the paragraph, substitute:

(b) if the unit is being undertaken as part of a course of study with a higher education provider and the course is not a course that the provider is authorised by a *government accreditation authority to accredit—the course is an *accredited course.

24 Section 206-1 (table items 5 to 10)

Repeal the items, substitute:

5	A decision under Division 225 (other than section 225-25), in relation to an external Territory	Division 225 (other than section 225-25)	the Minister

25 Section 217-1

Repeal the section, substitute:

217-1 What this Chapter is about

This Chapter primarily provides for approval of universities, self-accrediting entities and non self-accrediting entities to operate in external Territories, and for accreditation of courses of study in those Territories.

26 Section 222-1

Repeal the section, substitute:

222-1 What this Part is about

Certain persons (other than natural persons) may apply for approval to operate in an external Territory as a university, as a self-accrediting entity, or as a non self-accrediting entity.

All courses of study offered in an external Territory that an approved person is not authorised to accredit must be accredited by the Minister.

Persons (including natural persons) who do not have approval or accreditation under this Part may commit an offence if they operate as a university or other provider, offer higher education awards or describe themselves as universities, in an external Territory.

27 Subsection 225-1(1)

Repeal the subsection, substitute:

(1) A person (other than a natural person) who wishes to *operate in an external Territory as a university or other provider of *courses of study leading to *higher education awards, may apply in writing to the Minister:

(a) for any of the following:

(i) approval to operate as a university in relation to that Territory;

(ii) approval to operate as a self-accrediting entity in relation to that Territory;

(iii) approval to operate as a non self-accrediting entity in relation to that Territory; and

(b) for accreditation, in relation to that Territory, of courses of study leading to higher education awards that the person proposes to offer in that Territory and is not authorised by a *government accreditation authority to accredit.

Note: Division 228 contains offences for persons who operate as a university or other provider, offer higher education awards or describe themselves as universities, in an external Territory, without approval or accreditation under this Part.

Note: The heading to section 225-1 is altered by omitting "**as self-accrediting entity or for accreditation of course**" and substituting "**and accreditation**".

28 After subsection 225-1(2)

Insert:

(2A) The Minister may request an applicant to give the Minister specified additional information to enable the Minister to decide the application.

29 After section 225-1

Insert:

225-3 Approving a person to operate as a university in relation to an external Territory

(1) The Minister may approve a person to operate as a university in relation to an external Territory if:

(a) the person applies for approval, under section 225-1, to operate as a university; and

(b) the Minister is satisfied, following an assessment made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, that it is appropriate to approve the person to operate as a university in relation to the external Territory; and

(c) the person's principal purpose is either or both of the following:

(i) to provide education;

(ii) to conduct research.

Note: Refusal to approve a person to operate as a university is reviewable under Part 5-7.

(2) If the Minister approves a person to operate as a university in relation to an external Territory under subsection (1), he or she may, having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, approve the person's use of:

(a) the word "university"; or

(b) the words "university college"; or

(c) any like word or words;

for the purpose of:

(d) identifying the person in the person's *operation in the external Territory; or

(e) identifying the person's operation in the external Territory.

30 Section 225-5

Repeal the section, substitute:

225-5 Approving a person to operate as a self-accrediting entity in relation to an external Territory

(1) The Minister may approve a person to operate as a self-accrediting entity in relation to an external Territory if:

(a) the person applies for approval, under section 225-1, to operate as a self-accrediting entity in relation to that Territory; and

(b) the Minister is satisfied, following an assessment made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, that it is appropriate that the person be authorised to accredit *courses of study leading to *higher education awards in relation to that Territory; and

(c) the person's principal purpose is either or both of the following:

(i) to provide education;

(ii) to conduct research.

Note: Refusal to approve a person to operate as a self-accrediting entity is reviewable under Part 5-7.

(2) The Minister must, having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, specify in the approval:

(a) whether the person's authority to accredit *courses of study leading to *higher education awards in relation to that Territory is limited in any way; and

(b) the nature of any such limitation.

Note 1: An authority may be limited, for example, by reference to a field of study or level of qualification.

Note 2: A decision to limit an authority is reviewable under Part 5-7.

Minister may accredit courses that person is not authorised to self-accredit

(3) If the Minister proposes to:

(a) approve under subsection (1) a person to operate as a self-accrediting entity in relation to an external Territory; and

(b) limit under subsection (2) the person's authority to accredit *courses of study leading to *higher education awards in relation to that Territory;

the Minister may, when approving that person, accredit any course of study, in relation to that Territory, that the person proposes to offer in that Territory but would not be authorised to accredit because of that limitation.

(4) The Minister may only accredit a *course of study under subsection (3) in relation to an external Territory if the Minister is satisfied, following an assessment made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, that the course, and the way of delivering it, are appropriate to the award.

Note: A decision not to accredit a course of study under subsection (3) is reviewable under Part 5-7.

31 After section 225-5

Insert:

225-7 Approving a person to operate as a non self-accrediting entity in relation to an external Territory

The Minister may approve a person to operate as a non self-accrediting entity in relation to an external Territory if:

(a) the person applies under section 225-1 for:
  (i) approval to operate as a non self-accrediting entity in relation to that Territory; or
  (ii) approval to operate as a self-accrediting entity in relation to that Territory; and

(b) the Minister is satisfied, following an assessment made having regard to the *National Protocols and the Higher Education in External Territories Guidelines, that:
  (i) if subparagraph (a)(ii) applies—it would not be appropriate to authorise the person to accredit any *courses of study leading to *higher education awards in relation to that Territory; and
  (ii) in any case—it is appropriate that the person be authorised to offer courses of study leading to higher education awards in relation to that Territory; and

(c) the person's principal purpose is either or both of the following:
  (i) to provide education;

(ii) to conduct research.

Note: Refusal to approve a person to operate as a non self-accrediting entity, or a decision to approve a person to operate as a non self-accrediting entity on application for approval to operate as a self-accrediting entity, is reviewable under Part 5-7.

32 Paragraph 225-10(b)

Omit "award; and", substitute "award.".

33 Paragraph 225-10(c)

Repeal the paragraph.

34 Section 225-15

Repeal the section, substitute:

225-15 Duration of approval and accreditation

An approval or accreditation under this Part:

(a) remains in force for the period that the Minister determines; and

(b) is subject to any conditions that the Minister imposes.

Note: A decision determining a period during which an approval or accreditation remains in force, or imposing conditions on an approval or accreditation, is reviewable under Part 5-7.

35 Section 225-20

Repeal the section, substitute:

225-20 Amending or revoking an approval, authorisation or accreditation in relation to an external Territory

Amending or revoking an approval to operate as a university

(1) The Minister may amend or revoke an approval of a person under section 225-3 to operate as a university in relation to an external Territory at any time if the Minister is satisfied that:

(a) the person has breached a condition to which the person's approval is subject; or

(b) following a reassessment of the person's approval made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories

Guidelines, the person's circumstances have so changed that it is no longer appropriate that the person be approved to operate as a university in relation to that Territory; or

(c) the person's circumstances have changed so that it no longer satisfies paragraph 225-3(1)(c).

Note: Amendment or revocation of an approval is reviewable under Part 5-7.

Amending or revoking an approval to use a word or words

(2) The Minister may amend or revoke an approval for a person under section 225-3 to use a word or words in relation to an external Territory at any time if the Minister is satisfied that:

(a) the person has breached a condition to which the person's approval was subject; or

(b) following a reassessment of the person's approval made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, it is not appropriate for the person to use the word or words in relation to that Territory; or

(c) the person's approval under section 225-3 to operate as a university in relation to that Territory has been amended or revoked.

Note: Amendment or revocation of an approval is reviewable under Part 5-7.

Amending or revoking an approval to operate as a self-accrediting entity

(3) The Minister may amend or revoke an approval of a person under section 225-5 to operate as a self-accrediting entity in relation to an external Territory at any time if the Minister is satisfied that:

(a) the person has breached a condition to which the person's approval is subject; or

(b) following a reassessment of the person's approval made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, the person's circumstances have so changed that:

(i) it is no longer appropriate that the person be authorised to accredit any courses of study in relation to that Territory; or

(ii) it is no longer appropriate that the person be authorised to accredit one or more of the courses that it is currently authorised to accredit in relation to that Territory; or

(c) the person's circumstances have changed so that it no longer satisfies paragraph 225-5(1)(c).

Note: Amendment or revocation of an approval is reviewable under Part 5-7.

Amending or revoking an approval to operate as a non self-accrediting entity

(4) The Minister may amend or revoke an approval of a person under section 225-7 to operate as a non self-accrediting entity in relation to an external Territory at any time if the Minister is satisfied that:

(a) the person has breached a condition to which the person's approval is subject; or

(b) following a reassessment of the person's approval made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, the person's circumstances have so changed that it is no longer appropriate that the person be approved to operate as a non self-accrediting entity in relation to that Territory; or

(c) the person's circumstances have changed so that it no longer satisfies paragraph 225-7(c).

Note: Amendment or revocation of an approval is reviewable under Part 5-7.

Amending or revoking an accreditation of a course of study

(5) The Minister may amend or revoke an accreditation of a *course of study under section 225-5 or 225-10 in relation to an external Territory at any time if the Minister is satisfied that:

(a) the person *offering the course has breached a condition to which the accreditation is subject; or

(b) following a reassessment of the accreditation made having regard to the *National Protocols and any matters set out in the Higher Education in External Territories Guidelines, the content of, or manner of providing, the course has so changed that it is no longer appropriate to the award; or

(c) the person's approval under section 225-5 or 225-7 has been amended or revoked.

Note: Amendment or revocation of an accreditation is reviewable under Part 5-7.

Amending or revoking an approval or accreditation because false or misleading information provided in application

(6) The Minister may amend or revoke an approval or accreditation under this Part at any time if the Minister is satisfied that information given by a person in relation to an application under section 225-1 for that approval or accreditation was false or misleading.

Note: Amendment or revocation of an accreditation is reviewable under Part 5-7.

36 Subparagraph 228-1(1)(a)(i)

Omit "*university", substitute "university".

37 Paragraphs 228-1(1)(c) and (d)

Repeal the paragraphs, substitute:

(c) the person is not:

(i) an *Australian university; or

(ii) a *self-accrediting entity; or

(iii) approved to operate in that Territory by the Minister under section 225-3 or 225-7.

Note: The heading to section 228-1 is altered by omitting "**accreditation**" and substituting "**approval**".

38 Subsection 228-1(2)

Repeal the subsection, substitute:

(2) A person who contravenes subsection (1) commits a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.

39 Paragraph 228-5(1)(a)

After "offer,", insert "the whole or a part of".

40 Paragraphs 228-5(1)(c) and (d)

Repeal the paragraphs, substitute:

(c) the person is not an *Australian university or approved under section 225-3 to operate in relation to that Territory as a university; and

(d) if the person is a *self-accrediting entity—the person is not authorised by a *government accreditation authority to accredit the course; and

(e) the course is not accredited by the Minister under section 225-5 or 225-10 in relation to that Territory.

41 Paragraphs 228-5(2)(c) and (d)

Repeal the paragraphs, substitute:

(c) the person is not an *Australian university; and

(d) the offer, or purported offer, of the award is not dependent on the successful completion of a *course of study leading to a higher education award.

42 Subsection 228-5(3)

Repeal the subsection, substitute:

(3) A person who contravenes subsection (1) or (2) commits a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.

43 Paragraphs 228-10(1)(b) and (c)

Repeal the paragraphs, substitute:

(b) the person, or the person's operation or purported operation, as so identified, is not an *Australian university; and

(c) the Minister has not approved the use of that word or those words under subsection 225-3(2) or section 233-1 in relation to that Territory.

44 Subsection 228-10(2)

Repeal the subsection, substitute:

(2) A person who contravenes subsection (1) commits a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.

45 Paragraph 228-15(1)(a)

Omit "*university", substitute "university".

46 Before subsection 228-15(1)

Insert:

(1A) A reference to a person ***operating***, or purporting to operate, in an external Territory:

(a) as a university, or part of a university, providing *courses of study leading to *higher education awards; or

(b) as another provider of courses of study leading to higher education awards;

includes a reference to a person:

(c) offering, providing, or conducting a business of offering or providing:

(i) the whole or a part of such courses of study in relation to that Territory; or

(ii) such awards in relation to that Territory; or

(d) using premises for the purposes of operating as such a provider in relation to that Territory.

47 Subsection 228-15(1)

Omit "by means of any of the following telecommunication devices", substitute "by any of the following means".

48 Before paragraph 228-15(1)(c)

Insert:

(ca) a postal or other like service;

49 Subsection 228-15(2)

Omit "by means of any of the telecommunication devices", substitute "by any of the means".

50 Clause 1 of Schedule 1 (paragraph (b) of the definition of *accredited course*)

Repeal the paragraph, substitute:

(b) is accredited by a *government accreditation authority.

51 Clause 1 of Schedule 1

Insert:

Australian university means a body corporate:

(a) that meets the requirements set out in the *National Protocols for entities referred to in the National Protocols as Australian universities; and

(b) whose name is included, or who owns or controls a business name that is included, in the *Australian Qualifications Framework Register as an Australian university.

52 Clause 1 of Schedule 1

Insert:

government accreditation authority means:

(a) the Commonwealth; or

(b) a State or Territory accreditation agency listed in the *Australian Qualifications Framework Register.

53 Clause 1 of Schedule 1 (definition of *listed self-accrediting entity*)

Repeal the definition.

54 Clause 1 of Schedule 1 (definition of *National Protocol 1*)

Repeal the definition.

55 Clause 1 of Schedule 1 (definition of *National Protocol 3*)

Repeal the definition.

56 Clause 1 of Schedule 1

Insert:

non self-accrediting entity means a body corporate (other than an *Australian university or a *self-accrediting entity):

(a) whose name is included; or

(b) who owns or controls a business name that is included;

in the *Australian Qualifications Framework Register as a body authorised to offer *courses of study leading to *higher education awards, but not to accredit any of those courses.

57 Clause 1 of Schedule 1 (definition of *non self-accrediting provider*)

Repeal the definition.

58 Clause 1 of Schedule 1 (definition of *offering*)

Repeal the definition, substitute:

> ***offering***, in relation to an external Territory, has the meaning given by subsection 228-15(2).

59 Clause 1 of Schedule 1 (definition of *operating*)

Repeal the definition, substitute:

> ***operating***, in relation to an external Territory, has the meaning given by subsections 228-15(1A) and (1).

60 Clause 1 of Schedule 1

Insert:

> ***self-accrediting entity*** means a body corporate (other than an *Australian university):
>
> (a) whose name is included; or
>
> (b) who owns or controls a business name that is included;
>
> in the *Australian Qualifications Framework Register as a body authorised to accredit *courses of study leading to *higher education awards.

61 Clause 1 of Schedule 1 (definition of *self-accrediting provider*)

Repeal the definition.

62 Clause 1 of Schedule 1 (definition of *university*)

Repeal the definition.

Schedule 2—Overseas study requirements for OS-HELP assistance

Higher Education Support Act 2003

1 After paragraph 118-1(1)(h)

Insert:

(ha) the student has applied to the home provider for receipt of OS-HELP assistance in relation to the period; and

2 Subsection 118-1(2)

Repeal the subsection, substitute:

(2) However, the student is not entitled to *OS-HELP assistance in relation to that period if:

(a) another higher education provider has granted OS-HELP assistance to the student in relation to:

(i) that period; or

(ii) a period that overlaps with that period; or

(b) the student applies to the home provider for the assistance after the student has completed the study in relation to the period.

(3) To avoid doubt, the student may be outside Australia when the student applies to the home provider for receipt of *OS-HELP assistance.

3 Subparagraph 118-10(a)(iii)

Repeal the subparagraph.

4 After paragraph 118-10(a)

Insert:

(b) the study commences on or after 1 January 2005; and

5 Paragraph 118-10(c)

Omit "student's".

Schedule 3—Corrections to information affecting entitlements

Higher Education Funding Act 1988

1 After section 110A

Insert:

110B Commonwealth not liable where person later gives correct information

Despite any other provision of this Act, the Commonwealth is not, and is taken never to have been, liable to:

(a) lend an amount to a person under this Act; or

(b) apply any amount in making a payment to an institution under this Act in discharge of a liability of the person;

because of information given to an institution by the person after the commencement of section 1 to the *Higher Education Legislation Amendment (2007 Measures No. 1) Act 2007*.

Higher Education Support Act 2003

2 At the end of Division 169

Add:

169-35 6 week cut off for corrections affecting entitlement to Commonwealth assistance

If:

(a) more than 6 weeks after the *census date for a unit of study undertaken with a higher education provider, a person gives the provider information in writing (the ***correct information***) that establishes that information contained in or accompanying the person's *request for Commonwealth assistance was incorrect; and

(b) the correct information establishes that the person was entitled to a particular kind of Commonwealth assistance;

this Act applies as if the person had never been entitled to that particular Commonwealth assistance.

Higher Education Support (Transitional Provisions and Consequential Amendments) Act 2003

3 After subitem 1(2) of Schedule 1

Insert:

(2A) A person cannot establish for the purposes of subitem (1) that he or she is a contributing student within the meaning of Chapter 4 of the *Higher Education Funding Act 1988*, or not an excepted student, more than 6 weeks after the census date for the unit.

4 Item 6 of Schedule 1

Before "If:", insert "(1)".

5 At the end of item 6 of Schedule 1

Add:

(2) A person cannot establish for the purposes of subitem (1) that he or she is an eligible student, within the meaning of section 98B of the *Higher Education Funding Act 1988*, more than 6 weeks after the census date for the unit.

6 Application

The amendments made by items 2 to 5 apply in relation to a *census date that occurs on or after the commencement of this item.

Schedule 4—Commonwealth supported study at particular campus

Higher Education Support Act 2003

1 After section 36-30

Insert:

36-32 Commonwealth supported study at a particular campus

Nothing in sections 36-25 or 36-30 requires a higher education provider to advise a person that he or she is a Commonwealth supported student in relation to a unit of study undertaken at a particular campus of the provider.

Schedule 5—Residency requirements for Commonwealth assistance

Higher Education Support Act 2003

1 Paragraph 36-10(1)(c)

Repeal the paragraph, substitute:

(c) the person meets the citizenship or residency requirements for the purposes of this paragraph (see subsections (2) and (2A)); and

2 Subsection 36-10(2)

Repeal the subsection, substitute:

(2) A person meets the citizenship or residency requirements for the purposes of paragraph (1)(c) if the person is:

(a) an Australian citizen; or

(b) a citizen of New Zealand who will be resident within Australia for the duration of the unit; or

(c) a *permanent visa holder who will be resident within Australia for the duration of the unit.

(2A) In determining, for the purposes of subparagraph (2)(b) or (c), whether a person will be resident within Australia for the duration of the unit of study, disregard any period of residence outside Australia if:

(a) it cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the unit; or

(b) it is required for the purpose of completing a requirement of that unit.

(2B) Despite subsections (2) and (2A), a person does not meet the citizenship or residency requirements under paragraph (2)(b) or (c), if the higher education provider reasonably expects that he or she will not undertake in Australia any units of study contributing to the *course of study of which the unit forms a part.

3 Section 90-5

Repeal the section, substitute:

90-5 Citizenship or residency requirements

(1) A student meets the citizenship or residency requirements under this section in relation to a unit of study if the student is:

(a) an Australian citizen; or

(b) a *permanent humanitarian visa holder who will be resident in Australia for the duration of the unit.

(2) In determining, for the purpose of paragraph (1)(b), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of that unit; or

(b) is required for the purpose of completing a requirement of that unit.

(3) Despite subsections (1) and (2), a *permanent humanitarian visa holder does not meet the citizenship or residency requirements in relation to a unit of study if the provider reasonably expects that the visa holder will not undertake in Australia any units of study contributing to the *course of study of which the unit forms a part.

4 Section 104-5

Repeal the section, substitute:

104-5 Citizenship or residency requirements

(1) A student meets the citizenship or residency requirements under this section in relation to a unit of study if the student is:

(a) an Australian citizen; or

(b) a *permanent humanitarian visa holder who will be resident in Australia for the duration of the unit; or

(c) if the student is undertaking, or is to undertake, the unit as part of a *bridging course for overseas-trained professionals—a *permanent visa holder who will be resident in Australia for the duration of the unit.

(2) In determining, for the purpose of paragraph (1)(b) or (c), whether the student will be resident in Australia for the duration of the unit, disregard any period of residence outside Australia that:

(a) cannot reasonably be regarded as indicating an intention to reside outside Australia for the duration of the unit; or

(b) is required for the purpose of completing a requirement of that unit.

(3) Despite subsections (1) and (2), a *permanent humanitarian visa holder or *permanent visa holder does not meet the citizenship or residency requirements in relation to a unit of study if the provider reasonably expects that the visa holder will not undertake in Australia any units of study contributing to the *course of study, or the *bridging course for overseas-trained professionals, of which the unit forms a part.

5 Application

The amendments made by this Schedule apply in relation to a unit of study in which a student enrols after the commencement of this Schedule.

Schedule 6—Bridging courses provided by Open Universities Australia

Higher Education Support Act 2003

1 Subsection 104-45(1)

After "higher education provider", insert ", or to which access is provided by *Open Universities Australia,".

2 Paragraph 104-45(1)(c)

Repeal the paragraph, substitute:

(c) the person undertakes, or proposes to undertake, those additional studies by:

(i) enrolling, or proposing to enrol, on a *non-award basis, in those subjects or units with the provider; or

(ii) accessing, or proposing to access, those subjects or units through Open Universities Australia; and

3 Paragraph 104-45(1)(d)

Omit "provider's opinion", substitute "opinion of the provider or Open Universities Australia".

4 Subsection 104-45(2)

After "higher education provider", insert ", or to which access is provided by *Open Universities Australia,".

5 Paragraph 104-45(2)(c)

Repeal the paragraph, substitute:

(c) the person prepares, or proposes to prepare, for those examinations by:

(i) enrolling, or proposing to enrol, on a *non-award basis, in those occupation-related courses of instruction with the provider; or

(ii) accessing, or proposing to access, those occupation-related courses of instruction through Open Universities Australia; and

6 Paragraph 104-45(2)(d)

Omit "provider's opinion", substitute "opinion of the provider or Open Universities Australia".

7 Subsection 104-45(3)

After "higher education provider", insert ", or to which access is provided by *Open Universities Australia,".

8 Paragraph 104-45(3)(c)

Repeal the paragraph, substitute:

(c) the person undertakes, or proposes to undertake, such a program by:

(i) enrolling, or proposing to enrol, on a *non-award basis, in a tuition and training program with the provider; or

(ii) accessing, or proposing to access, a tuition and training program through Open Universities Australia; and

9 Paragraph 104-45(3)(d)

Omit "provider's opinion", substitute "opinion of the provider or Open Universities Australia".

Schedule 7—Changed name of Victoria University

Higher Education Support Act 2003

1 Subsection 16-15(1) (table item dealing with Victoria University of Technology)

Omit "of Technology".

Schedule 8—Commonwealth support for cross-institutional study

Higher Education Support Act 2003

1 Paragraph 19-87(1)(b)

Repeal the paragraph, substitute:

(b) in relation to which the provider may advise a person that he or she is a *Commonwealth supported student.

2 Paragraph 36-10(1)(b)

Omit "the provider or, where the provider is a *Table A provider, with another Table A provider", substitute "that provider or another higher education provider".

3 Paragraph 36-22(1)(aa)

Omit "the provider or, where the provider is a *Table A provider, with another Table A provider", substitute "that provider or another higher education provider".

4 Paragraph 79-1(1)(aa)

Omit "the provider or, where the provider is a *Table A provider, with another Table A provider", substitute "that provider or another higher education provider".

Schedule 9—Funding for implementation of the Research Quality Framework

Higher Education Support Act 2003

1 Subsection 41-45(1) (table items 3 to 6)

Repeal the table items, substitute:

3	2007	$1,768,622,000
4	2008	$1,758,134,000
5	2009	$1,744,636,000
6	2010	$1,732,526,000

Schedule 10—Registration of suspensions of higher education providers

Higher Education Support Act 2003

1 Subsection 22-30(1)

Omit "may determine in writing", substitute "may, by legislative instrument, determine".

2 After subsection 22-40(3)

Insert:

(3A) A notice of revocation under subsection (3) is a legislative instrument.

[*Minister's second reading speech made in—*
House of Representatives on 28 February 2007
Senate on 9 May 2007]

(29/07)