

TASMANIA

TASMANIAN QUALIFICATIONS AUTHORITY AMENDMENT BILL 2007

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**TASMANIAN QUALIFICATIONS AUTHORITY
AMENDMENT BILL 2007**

*(Brought in by the Minister for Education, the Honourable
David John Bartlett)*

A BILL FOR

An Act to amend the *Tasmanian Qualifications Authority Act 2003* and the *Vocational Education and Training Act 1994* and to consequentially repeal and rescind certain legislation

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Tasmanian Qualifications Authority Amendment Act 2007*.

2. Commencement

This Act commences on 1 January 2008.

**PART 2 – TASMANIAN QUALIFICATIONS
AUTHORITY ACT 2003 AMENDED**

3. Principal Act

In this Part, the *Tasmanian Qualifications Authority Act 2003** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting the definition of “accredited higher education course” from subsection (1) and substituting the following definitions:

“accredited course” means an accredited senior secondary course, accredited higher education course or accredited other education course;

“accredited education program” means an education program that is accredited under section 55ZU;

“accredited higher education course” means a course that is accredited under section 36 or by

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a self-accrediting higher
education provider;

“accredited other education course”
means a course that is accredited
under section 55ZI;

- (b) by omitting the definitions of “ANTA Ministerial Council” and “approved qualification” from subsection (1) and substituting the following definitions:

“ANTA Ministerial Council” means
the Australian National Training
Authority Ministerial Council
that –

- (a) was established in
accordance with the
statement entitled “A
National Vocational
Education and Training
System” agreed on by the
Commonwealth and each
State and Territory and
published on 21 July
1992; and
- (b) was replaced by the
Ministerial Council
referred to in the *Skilling
Australia’s Workforce Act
2005* of the
Commonwealth;

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“approval certificate” means an approval certificate issued under section 55D;

“approved overseas higher education course” means a higher education course approved under section 55B(5)(b);

“approved overseas higher education provider” means an overseas higher education institution approved under section 55B(1)(a) as an approved overseas higher education provider;

“approved overseas higher education qualification” means a qualification approved under section 55B(5)(c);

“approved qualification” means –

- (a) a qualification for an accredited senior secondary course determined under section 26(4)(b); or
- (b) a qualification for an examination or assessment of senior secondary education determined under section 33C(b); or

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- (c) a higher education award
for an accredited higher
education course
determined under
section 36(3); or
 - (d) a qualification for an
approved overseas higher
education course
approved under
section 55B(5)(c); or
 - (e) a qualification for a
higher education course
provided by a self-
accrediting higher
education provider
determined by that
provider under
section 55Z; or
 - (f) a qualification for an
accredited other education
course determined under
section 55ZI(3); or
 - (g) a qualification for an
examination or
assessment of other
education determined
under section 55ZR(b); or
 - (h) a qualification for an
accredited education
program determined
under section 55ZU(5);

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“assessment recommendation”

means the recommendation made under section 55ZZR by the Authority to the Minister as to whether it is appropriate to establish a new university;

- (c) by omitting “time;” from the definition of “Australian Quality Training Framework” in subsection (1) and substituting “time by the Ministerial Council referred to in the *Skilling Australia’s Workforce Act 2005* of the Commonwealth or a prescribed body or person;”;
- (d) by inserting the following definition after the definition of “Authority” in subsection (1):

“certificate of self-accrediting status” means a certificate of self-accrediting status issued under section 55Q;

- (e) by inserting the following definition after the definition of “committee” in subsection (1):

“corresponding law” means a law of the Commonwealth, another State or a Territory that provides for the accreditation, registration, licensing, approval or other recognition of any one or more of the following:

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- (a) senior secondary courses;
 - (b) higher education courses;
 - (c) other education courses;
 - (d) education programs;
 - (e) higher education providers;
 - (f) providers of education programs to overseas students;
- (f) by omitting “course –” from paragraph (c) of the definition of “course” in subsection (1) and substituting “course; or”;
- (g) by inserting the following paragraphs after paragraph (c) in the definition of “course” in subsection (1):
- (d) an approved overseas higher education course; or
 - (e) an accredited other education course –
- (h) by omitting the definitions of “education” and “exempt university” from subsection (1) and substituting the following definitions:

“education program” means –

- (a) an accredited course; or

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(b) an accredited training course; or

(c) any other instruction, training or prescribed means of education, whether given as a course of study or otherwise;

“exempt university” means –

(a) a university; or

(b) another provider of higher education; or

(c) another person –

referred to in section 5;

“externally provided distance course” means a course provided to a student situated in Tasmania if –

(a) the course is entirely provided by means that do not include teaching in person; and

(b) while the person is providing the course, the person is not present in Tasmania, and does not have any employees or business premises in Tasmania, for the

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purposes of providing that
course;

“field of study” has the same meaning
as in the National Protocols for
Higher Education Approval
Processes;

“formal education” means education
that –

- (a) is delivered in a structured
program that if
successfully completed
will result in the person
obtaining a qualification;
or
- (b) will result in the person
obtaining a qualification
if –
 - (i) the attainment of
the education is
successfully
demonstrated by
that person in an
examination or
other assessment
conducted by
another person,
other than the
Authority; and
 - (ii) the conduct of
such an
examination or

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other assessment
by that other
person is an
ordinary part of
the business,
functions or
activities of that
other person;

(i) by omitting “under the Australian Qualifications Framework” from the definition of “higher education” in subsection (1);

(j) by inserting the following paragraph after paragraph (d) in the definition of “higher education award” in subsection (1):

(da) an approved overseas higher education qualification; or

(k) by inserting the following definition after the definition of “higher education course” in subsection (1):

“interstate higher education course”
means a higher education course
that is –

(a) accredited, registered,
licensed or otherwise
approved under a
corresponding law that
provides for the
accreditation, registration,
licensing or other

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approval of a higher
education course; and

- (b) provided to a student
present in Tasmania –

but does not include an externally
provided distance course;

- (l) by inserting the following definition after
the definition of “justice of the peace” in
subsection (1):

“local higher education course”

means a higher education course,
other than an interstate higher
education course or overseas
higher education course, that –

- (a) is provided in Tasmania;
or

- (b) is provided in another
State, a Territory or
another country by a
person resident or situated
in, or whose principal
business premises are
situated in, Tasmania;

- (m) by inserting the following definitions
after the definition of “local registered
training organisation” in subsection (1):

“MCEETYA” means the Ministerial
Council on Education,
Employment, Training and Youth

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Affairs created in 1993 by the Council of Australian Governments and which consists of the Ministers from the Commonwealth, States and Territories having responsibility for education, employment, training and youth affairs;

“National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students” means the code of that name approved by MCEETYA on 7 July 2006, as amended or substituted from time to time;

- (n) by omitting the definition of “national standard” from subsection (1) and substituting the following definitions:

“national standard” means a standard relating to the provision of a course, the assessment of a person undertaking a course or the conferral or issue of a qualification in respect of a course to be followed by Commonwealth, State and Territory registering bodies and course accrediting bodies under –

- (a) the Australian Quality Training Framework; or

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- (b) the National Protocols for Higher Education Approval Processes; or
- (c) the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students; or
- (d) the English Language Intensive Courses for Overseas Students (ELICOS) Standards;

“other education” means education obtained by a person after the completion of those years of schooling that the person is required by law to attend –

- (a) including but not limited to adult education, community education and education specifically designed for a person with a disability; but
- (b) excluding senior secondary education, vocational education and training and higher education;

“other education course” means a course of study in other education that entitles a person who

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satisfies the course requirements to the conferral or issue of an approved qualification;

“overseas higher education course”
means a higher education course provided or to be provided by an overseas higher education institution;

- (o) by omitting the definition of “qualification” from subsection (1) and substituting the following definitions:

“overseas student” means a student in relation to whom a fee is paid for a course, but does not include –

- (a) an Australian citizen or a dependant of an Australian citizen; or
- (b) a New Zealand citizen or a dependant of a New Zealand citizen; or
- (c) a permanent resident in Australia or a dependant of such a permanent resident; or
- (d) a refugee resident in Australia;

“person” includes –

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(a) a body of persons
corporate or
unincorporate; and

(b) a government department
or part of a government
department;

“qualification” means the
recognition, by any means, that a
person has successfully
completed a course or course of
study or has been successful in an
examination or other assessment
of an area of his or her education;

“recognised qualification” means a
qualification recognised by the
Authority under
section 55ZZM(1);

**“registered education (overseas
students) provider”** means a
person who is registered as a
registered education (overseas
students) provider under
section 55ZZA;

(p) by inserting the following definition after
the definition of “registered higher
education provider” in subsection (1):

**“registered student exchange
organisation”** means an
organisation or other person that
is registered as a registered

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student exchange organisation
under section 33E;

- (q) by inserting the following definitions after the definition of “registration certificate” in subsection (1):

“registration (overseas students) certificate” means a registration (overseas students) certificate issued under section 55ZZC;

“registration (student exchange organisation) certificate” means a registration (student exchange organisation) certificate issued under section 33F;

- (r) by inserting the following definition after the definition of “rules” in subsection (1):

“self-accrediting higher education provider” means a person who is granted the status of self-accrediting higher education provider under section 55O;

- (s) by inserting the following definition after the definition of “senior secondary education” in subsection (1):

“student exchange program” means a program whereby Tasmanian students undertaking senior secondary education, or other secondary education, may

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undertake a part of their studies in
a country other than Australia and
in return students from other
countries may undertake a part of
their studies in Tasmania;

(t) by inserting in subsection (2)(a) “or
education” after “course”;

(u) by omitting paragraph (b) from
subsection (2) and substituting the
following paragraph:

(b) a person who provides a course or
education to a student who is
present in Tasmania while
undertaking that course or
education is taken to provide that
course or education in Tasmania
unless that course is an externally
provided distance course.

5. Section 5 substituted

Section 5 of the Principal Act is repealed and the
following section is substituted:

**5. Non-application of Act to certain providers
of higher education**

(1) This Act, other than Part 4B, does not
apply in relation to –

(a) the University of Tasmania; or

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- (b) a university established, recognised or registered by or under –
 - (i) an Act of this State; or
 - (ii) an Act of the Commonwealth, another State or a Territory; or
 - (c) a person who is authorised to provide higher education courses, and self-accredit those courses, by or under an Act of the Commonwealth, another State or a Territory.
- (2) This Act, or a provision or part of this Act, as prescribed does not apply to a prescribed person or a person of a prescribed class of persons.
- (3) If the University of Tasmania, a university referred to in subsection (1)(b), a person referred to in paragraph (c) or a person referred to in subsection (2) is a registered education (overseas students) provider, this Act applies to that university or person in his, her or its capacity as such a registered education (overseas students) provider.

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6. Section 10 amended (Functions of Authority)

Section 10 of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “approved qualifications and other” after “the”;
- (b) by omitting from paragraph (b) “education and higher education;” and substituting “education, higher education and other education;”;
- (c) by omitting paragraph (d) and substituting the following paragraphs:
 - (d) to determine standards and qualifications in senior secondary education and other education and to provide for or determine related matters;
 - (da) to set, conduct or arrange for the conduct of, and mark examinations and assessments in senior secondary education and other education and to provide for or determine related matters;
 - (db) to accredit education programs for overseas students, register providers of such programs and provide for or determine related matters;
- (d) by omitting from paragraph (e) “education and training and higher

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education;” and substituting “education,
higher education and other education;”.

7. Section 11 amended (Powers of Authority)

Section 11 of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) undertaking audits of providers of education or training at the request of persons the Authority considers have an interest in the provision of education or training by those providers;

8. Section 24 substituted

Section 24 of the Principal Act is repealed and the following section is substituted:

24. Report to Minister

- (1) By 31 March each year, the Authority is to provide to the Minister an annual report on its activities for the year ending on the immediately preceding 31 December.
- (2) The Minister must cause a copy of the annual report to be laid before each House of Parliament within one month after receiving it.

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- (3) If the Minister is unable to comply with subsection (2) because either House of Parliament is not sitting, the Minister must –
- (a) either before, or as soon as practicable after, the end of that one-month period –
 - (i) forward a copy of the annual report to the Clerk of that House; and
 - (ii) make the annual report available to the public; and
 - (b) within the next 7 sitting-days of that House, cause the annual report to be laid before that House.

9. Part 3, Division 1: Heading inserted

Part 3 of the Principal Act is amended by inserting the following heading before section 25:

Division 1 – Accredited senior secondary courses

10. Section 31 amended (Assessment of accredited senior secondary courses)

Section 31 of the Principal Act is amended by omitting “arrangements” and substituting

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“arrangements, and may set, conduct or arrange for the conduct of and mark examinations and assessments,”.

11. Part 3, Divisions 2 and 3 inserted

After section 33 of the Principal Act, the following Divisions are inserted in Part 3:

Division 2 – Senior secondary education otherwise than by completion of accredited senior secondary course

33A. Examination or assessment of senior secondary education

The Authority may determine procedures and arrangements, and may set, conduct or arrange for the conduct of and mark examinations and assessments, for the assessment of persons in respect of senior secondary education that has been obtained by those persons otherwise than by the successful completion of an accredited senior secondary course.

33B. Senior secondary education qualification

If a person meets the standards required by the Authority for success in an examination or assessment of the person’s senior secondary education that was obtained otherwise than by the successful completion of an accredited

senior secondary course, the Authority is to issue to the person the approved qualification for that examination or assessment.

33C. Standards and qualifications for senior secondary education

The Authority may –

- (a) set or adopt standards for examinations and assessments of the senior secondary education obtained by a person otherwise than by the successful completion of an accredited senior secondary course; and
- (b) determine qualifications for the successful completion of such examinations and assessments.

Division 3 – Registration of student exchange organisations

33D. Application for registration of student exchange organisation

- (1) An organisation or other person that proposes to oversee or manage a student exchange program may apply to the Authority for registration as a registered student exchange organisation.
- (2) An application is to be –

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- (a) in a form approved by the Authority; and
 - (b) accompanied by any prescribed fee.
- (3) The Authority may require the applicant to provide any further information, and any permissions for the release of information, it considers relevant to the application.

33E. Registration as registered student exchange organisation

- (1) On receipt of an application under section 33D, the Authority may –
 - (a) register the applicant as a registered student exchange organisation; or
 - (b) refuse to so register the applicant.
- (2) In determining whether or not to register an applicant, the Authority is to have regard to –
 - (a) any relevant national guidelines; and
 - (b) the aims of the proposed student exchange program; and
 - (c) the reciprocal arrangements between Tasmania and the other

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country under the proposed student exchange program; and

- (d) the organisational and financial structure of the applicant; and
 - (e) the support offered under the proposed student exchange program to students in the program and the families accommodating those students; and
 - (f) the arrangements for health insurance for students in the proposed student exchange program; and
 - (g) the processes established by the proposed student exchange program for resolution of problems; and
 - (h) any other matter the Authority considers relevant.
- (3) On registering or refusing to register an applicant, the Authority is to notify the applicant, in writing, of that decision.

33F. Registration (student exchange organisation) certificate

- (1) On registering an organisation or other person as a registered student exchange organisation, the Authority is to issue a

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registration (student exchange
organisation) certificate to that
organisation.

- (2) A registration (student exchange
organisation) certificate is to specify –
- (a) the period for which the
registered student exchange
organisation is registered; and
 - (b) any other matter the Authority
considers appropriate.

33G. Term of registration

- (1) The registration of a registered student
exchange organisation has effect for the
period not exceeding 5 years specified in
the registration (student exchange
organisation) certificate.
- (2) Registration of a person as a registered
student exchange organisation takes
effect on the day the registration (student
exchange organisation) certificate is
issued or on a later day specified in that
certificate.

33H. Registration fee

A registered student exchange
organisation must pay any prescribed
registration fee.

33I. Amendment of registration

- (1) The Authority may amend the registration of a registered student exchange organisation on the request of the registered student exchange organisation or at its own discretion.
- (2) If the Authority amends a registration under subsection (1), the Authority is to –
 - (a) notify the registered student exchange organisation, in writing, of that amendment; and
 - (b) either endorse that amendment on the registration (student exchange organisation) certificate or provide the registered student exchange organisation with a replacement registration (student exchange organisation) certificate.
- (3) The amendment of the registration of a registered student exchange organisation takes effect on the day specified in the notice provided to that organisation under subsection (2)(a).

33J. Renewal of registration

- (1) A registered student exchange organisation may apply for the renewal

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of the registration not less than 6 calendar months before the registration ceases to have effect.

- (2) This Division applies in respect of an application for renewal of registration as a registered student exchange organisation, and that renewal, as if the application were an application for a first registration as a registered student exchange organisation.
- (3) A registered student exchange organisation must comply with the written requirement of the Authority that the registration (student exchange organisation) certificate be surrendered to the Authority for the purpose of amending it, or replacing it, as the Authority determines appropriate on the renewal of the registration.

33K. Registration not transferable

The registration of an organisation or other person as a registered student exchange organisation may not be transferred to any other organisation or person.

33L. Guidelines

The Authority may issue guidelines in respect of –

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- (a) the accommodation, education and wellbeing of students in a student exchange program; and
- (b) the processes for making complaints and dealing with problems and complaints under a student exchange program; and
- (c) any other matter the Authority considers relevant to a student exchange program.

33M. Direction to registered student exchange organisation

- (1) The Authority may direct a registered student exchange organisation to take any action the Authority considers appropriate or refrain from doing any act if the Authority is of the opinion that –
 - (a) the registered student exchange organisation has contravened this Act or guidelines issued under section 33L; or
 - (b) it is appropriate to give the direction having taken into account the matters specified in section 33E(2).
- (2) A direction is to be in writing provided to the registered student exchange organisation.

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- (3) A registered student exchange organisation must comply with a direction provided under this section.

33N. Cancellation or suspension of registration

- (1) The Authority may cancel or suspend the registration of a registered student exchange organisation if, after allowing the organisation an opportunity to make submissions in respect of the matter, the Authority is satisfied that –
- (a) the organisation has contravened this Act or guidelines issued under section 33L; or
 - (b) it is appropriate to so cancel or suspend the registration having taken into account the matters specified in section 33E(2); or
 - (c) it is in the public interest to so cancel or suspend the registration; or
 - (d) the organisation has not complied with a direction under section 33M within the time specified in the direction.
- (2) The Authority is to cancel the registration of a registered student exchange organisation if it has surrendered the registration (student

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exchange organisation) certificate and requested that the registration be cancelled.

12. Section 34 substituted

Section 34 of the Principal Act is repealed and the following section is substituted:

34. When person may provide higher education course or higher education award

- (1) A person may provide a higher education course if –
 - (a) the person is a registered higher education provider, approved overseas higher education provider or self-accrediting higher education provider; and
 - (b) the course is an accredited higher education course, or approved overseas higher education course, that the provider is authorised under this Act to provide.
- (2) A person may confer or issue a higher education award if –
 - (a) the person conferring or issuing the award is a registered higher education provider, approved overseas higher education provider or self-accrediting higher education provider; and

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- (b) the course for which the award is to be conferred or issued is an accredited higher education course, or approved overseas higher education course, which the provider is authorised under this Act to provide; and
- (c) the award is an approved qualification which the provider is authorised under this Act to confer or issue.

13. Section 35 amended (Application for accreditation of course)

Section 35 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:
 - (1) A person who proposes to provide –
 - (a) in Tasmania or elsewhere a local higher education course; or
 - (b) in Tasmania an interstate higher education course or overseas higher education course –

may apply to the Authority for accreditation of that course.

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- (b) by omitting from subsection (2)(b) “fee.” and substituting “fee; and”;
 - (c) by inserting the following paragraphs after paragraph (b) in subsection (2):
 - (c) if the application relates to an interstate higher education course, accompanied by –
 - (i) either evidence that the course is accredited, registered, licensed or otherwise approved under a corresponding law or the application for the course to be so accredited, registered, licensed or otherwise approved; and
 - (ii) permission in writing for the person or authority that accredits, registers, licenses or otherwise approves higher education courses under that corresponding law to provide to the Authority details of that accreditation, registration, licence or other approval or of that application; and
 - (d) if the application relates to an overseas higher education course, accompanied by –

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- (i) if the course is provided in a country other than Australia, information on the provision of the course in that country and, if applicable, evidence that the course is accredited, registered, licensed or otherwise approved under a law of that country; and
 - (ii) permission in writing for the person or authority that accredits, registers, licenses or otherwise approves higher education courses under the law of that country to provide to the Authority details of that accreditation, registration, licence or other approval.
- (d) by omitting from subsection (3) “information” and substituting “information, and permissions for the release of information,”.

14. Section 36 amended (Accreditation of higher education course)

Section 36 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (2) “local” after “accredit a”;
- (b) by omitting from subsection (2) “may” and substituting “is to”;
- (c) by inserting the following subsections after subsection (2):

(2A) In determining whether to accredit an interstate higher education course or overseas higher education course, the Authority is to have regard to –

- (a) local issues that may impact on delivery of the course in Tasmania; and
- (b) any of the matters specified in subsection (2); and
- (c) any other relevant matter.

(2B) The Authority may accredit an interstate higher education course without having regard to the matters specified in subsection (2) if satisfied that –

- (a) the course is accredited, registered, licensed or otherwise approved under a corresponding law; and

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- (b) the course is to be delivered in Tasmania in substantially the same manner as in the jurisdiction where it is so accredited, registered, licensed or otherwise approved.
- (d) by inserting in subsection (3) “local higher education course or overseas” after “a”;
- (e) by inserting in subsection (3) “or issued” after “conferred”;
- (f) by inserting the following subsection after subsection (3):
 - (3A) On accrediting an interstate higher education course, the Authority is to determine that the qualification that may be conferred or issued in respect of the course under the relevant corresponding law is the higher education award that will be conferred on the successful completion of the course.

15. Section 37 substituted

Section 37 of the Principal Act is repealed and the following section is substituted:

37. Term of accreditation of accredited higher education course

- (1) An accredited higher education course that is a local higher education course or overseas higher education course is accredited for the period, not exceeding 5 years, determined by the Authority.
- (2) An accredited higher education course that is an interstate higher education course is accredited for the period for which it is accredited, registered, licensed or otherwise approved under the relevant corresponding law.

16. Section 41 repealed

Section 41 of the Principal Act is repealed.

17. Section 42 amended (Application for registration)

Section 42 of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (b) in subsection (2):
 - (ba) if the applicant is registered, accredited, licensed or otherwise approved for the purposes of providing a higher education course under a corresponding law or has made an application for

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such registration, accreditation,
licence or approval, accompanied
by –

- (i) either evidence of that registration, accreditation, licence or other approval under the corresponding law or the application for such registration, accreditation, licence or approval; and
 - (ii) permission in writing for the person or authority that registers, accredits, licenses or otherwise approves providers of higher education courses under that corresponding law to provide to the Authority details of that registration, accreditation, licence or other approval or of that application; and
- (b) by omitting from subsection (3) “information” and substituting “information, and permissions for the release of information,”.

18. Section 43 amended (Registration as registered higher education provider)

Section 43 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(a) “for a period not exceeding 5 years”;
- (b) by omitting from subsection (2) “person, the Authority may” and substituting “person who is not registered, accredited, licensed or otherwise approved by a corresponding law in relation to the provision of a higher education course, the Authority is to”;
- (c) by inserting the following subsections after subsection (2):
 - (2A) In determining whether or not to register a person who is registered, accredited, licensed or otherwise approved by a corresponding law in relation to the provision of a higher education course, the Authority is to have regard to –
 - (a) local issues that may impact on delivery by the person of a higher education course in Tasmania; and

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(b) any of the matters specified in subsection (2); and

(c) any other relevant matter.

(2B) The Authority may register a person who is registered, accredited, licensed or otherwise approved by a corresponding law in relation to the provision of higher education courses without having regard to the matters specified in subsection (2) if satisfied that –

(a) the person is so registered, accredited, licensed or otherwise approved under a corresponding law; and

(b) the person is to deliver the higher education courses in Tasmania, once they are accredited higher education courses, in substantially the same manner as in the jurisdiction where he, she or it is so registered, accredited, licensed or otherwise approved.

(d) by inserting in subsection (3) “registering or” after “On”.

19. Section 45 amended (Registration certificate)

Section 45(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “registered.” and substituting “registered; and”;
- (b) by inserting the following paragraph after paragraph (d):
 - (e) any other matter the Authority considers appropriate.

20. Section 46 amended (Term of registration)

Section 46 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “who, immediately before being registered, was not registered, accredited, licensed or otherwise approved under a corresponding law in relation to the provision of a higher education course” after “provider”;
- (b) by inserting the following subsection after subsection (1):
 - (1A) The registration of a registered higher education provider who, immediately before being registered, was registered, accredited, licensed or otherwise

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approved under a corresponding law in relation to the provision of a higher education course has effect for the period for which the provider is so registered, accredited, licensed or otherwise approved under the corresponding law.

21. Section 51 amended (Direction to registered higher education provider)

Section 51(1)(c) of the Principal Act is amended by omitting “section 43(2);” and substituting “section 43(2) and (2A);”.

22. Section 52 amended (Cancellation or suspension of registration)

Section 52(1)(c) of the Principal Act is amended by omitting “section 43(2);” and substituting “section 43(2), (2A) and (2B);”.

23. Sections 53 and 54 repealed

Sections 53 and 54 of the Principal Act are repealed.

24. Part 4, Divisions 4, 5 and 6 inserted

After section 55 of the Principal Act, the following Divisions are inserted in Part 4:

Division 4 – Approval of overseas higher education provider

55A. Application for approval

- (1) An overseas higher education institution that proposes to provide in Tasmania a higher education course may apply to the Authority for approval as an approved overseas higher education provider.
- (2) An application is to be –
 - (a) in a form approved by the Authority; and
 - (b) if the overseas higher education institution is accredited, registered, licensed or otherwise approved under a law of the country in which it was originally established, accompanied by –
 - (i) evidence of that accreditation, registration, licence or other approval; and
 - (ii) permission for the person or body responsible for that accreditation, registration, licence or

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other approval to provide
information relating to the
applicant to the Authority;
and

- (c) if the applicant is authorised under a corresponding law that corresponds to this Division to provide in another State or a Territory a higher education course by reason of its registration, accreditation, licence or other approval under that corresponding law or has made an application for such registration, accreditation, licence or approval, accompanied by –
 - (i) either evidence of that registration, accreditation, licence or other approval under the corresponding law or the application for such registration, accreditation, licence or approval; and
 - (ii) permission in writing for the person or authority that registers, accredits, licenses or otherwise approves overseas higher education institutions under that corresponding law to provide to the Authority details of that

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registration, accreditation,
licence or other approval
or of that application; and

- (d) accompanied by any prescribed fee.
- (3) The Authority may require the applicant to provide any further information, and any further permissions for the release of information, it considers relevant to the application.

55B. Approval as approved overseas higher education provider

- (1) On receipt of an application under section 55A, the Authority may –
 - (a) approve the applicant as an approved overseas higher education provider; or
 - (b) refuse to so approve the applicant.
- (2) In determining whether or not to approve an overseas higher education institution that is not registered, accredited, licensed or otherwise approved by a corresponding law in relation to the provision of a higher education course, the Authority is to have regard to –

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- (a) any national standards relating to the approval of overseas higher education institutions; and
- (b) the international standing and standards of the person or body responsible for the accreditation, registration, licensing or other recognition of the institution in the country in which it was originally established; and
- (c) the standing and standards of the institution and the higher education courses it provides; and
- (d) the processes provided by the applicant in respect of quality assurance; and
- (e) the delivery and assessment methods used in respect of the higher education course to be provided by the applicant; and
- (f) the premises, equipment, materials, staff and resources proposed to be used in Tasmania in respect of the higher education course to be provided by the applicant; and
- (g) the manner in which the proposed course is to be provided in Tasmania and the local issues that may impact on delivery of the course; and

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- (h) any other matter the Authority considers relevant.
- (3) In determining whether or not to approve an overseas higher education institution that is registered, accredited, licensed or otherwise approved by a corresponding law in relation to the provision of a higher education course, the Authority is to have regard to –
- (a) local issues that may impact on delivery by the institution of a higher education course in Tasmania; and
 - (b) any of the matters specified in subsection (2); and
 - (c) any other relevant matter.
- (4) The Authority may approve an overseas higher education institution that is registered, accredited, licensed or otherwise approved by a corresponding law in relation to the provision of a higher education course without having regard to the matters specified in subsection (2) if satisfied that –
- (a) the institution is so registered, accredited, licensed or otherwise approved under a corresponding law; and
 - (b) the institution is to deliver that higher education course in

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Tasmania in substantially the same manner as in the jurisdiction where it is so registered, accredited, licensed or otherwise approved under a corresponding law.

- (5) On approving an overseas higher education institution, the Authority is to –
- (a) specify the title the institution may use in Tasmania having regard to the National Protocols for Higher Education Approval Processes; and
 - (b) approve the higher education courses, not being accredited higher education courses, that the institution is authorised to provide to students in Tasmania; and
 - (c) approve the qualifications that the institution is authorised to confer or issue for the successful completion of those approved overseas higher education courses.
- (6) On approving or refusing to approve an overseas higher education institution, the Authority is to notify the applicant, in writing, of that decision.

55C. Approval subject to conditions

- (1) On approving an overseas higher education institution as an approved overseas higher education provider and at any other time, the Authority may –
 - (a) impose conditions to which the approval as an approved overseas higher education provider is subject; and
 - (b) amend any such conditions.
- (2) Without limiting the conditions that the Authority may impose, the Authority may impose conditions relating to –
 - (a) the use of its title in Tasmania; and
 - (b) the manner of and arrangements for the delivery of an approved overseas higher education course.
- (3) A condition imposed under this section, or the amendment under this section of such a condition, takes effect on the day on which the approved overseas higher education provider receives written notice of the condition, or amendment, or on a later day specified in that notice.

55D. Approval certificate

- (1) On approving an overseas higher education institution as an approved overseas higher education provider, the Authority is to issue an approval certificate to that provider.
- (2) An approval certificate is to specify –
 - (a) which approved overseas higher education courses and accredited higher education courses, or the classes of such higher education courses, the approved overseas higher education provider is authorised to provide; and
 - (b) which approved overseas higher education qualification the approved overseas higher education provider is authorised to confer or issue in respect of those courses; and
 - (c) any conditions imposed under section 55C; and
 - (d) the period for which the overseas higher education provider is approved; and
 - (e) any other matter the Authority considers appropriate.
- (3) If the Authority under section 55C imposes conditions on the approval of an

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approved overseas higher education provider otherwise than on the grant of that approval, or amends any such conditions, the Authority is to amend the approval certificate or issue a replacement approval certificate.

- (4) Conditions to which the approval of an approved overseas higher education provider is subject may be specified in an approval certificate by –
- (a) specifying those conditions in or on the certificate; or
 - (b) attaching those conditions to the certificate; or
 - (c) providing to the approved overseas higher education provider a written notice containing those conditions.

55E. Term of approval

- (1) The approval of an approved overseas higher education provider that, immediately before being approved, was not registered, accredited, licensed or otherwise approved under a corresponding law in relation to the provision of a higher education course has effect for the period not exceeding 5 years specified in the approval certificate.

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- (2) The approval of an approved overseas higher education provider that, immediately before being approved, was registered, accredited, licensed or otherwise approved under a corresponding law in relation to the provision of a higher education course has effect for the period for which the provider is so registered, accredited, licensed or otherwise approved under the corresponding law unless sooner cancelled.
- (3) Approval of an overseas higher education institution as an approved overseas higher education provider takes effect on the day the approval certificate is issued or on a later day specified in that certificate.

55F. Approval fee

An approved overseas higher education provider must pay any prescribed approval fee.

55G. Amendment of approval

- (1) The Authority may amend the approval of an approved overseas higher education provider on the request of the approved overseas higher education provider or at its own discretion.

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- (2) If the Authority amends a registration under subsection (1), the Authority is to –
- (a) notify the approved overseas higher education provider, in writing, of that amendment; and
 - (b) either endorse that amendment on the approval certificate or provide the approved overseas higher education provider with a replacement approval certificate.
- (3) The amendment of the approval of an approved overseas higher education provider takes effect on the day specified in the notice provided to that provider under subsection (2)(a).

55H. Renewal of approval

- (1) An approved overseas higher education provider may apply for the renewal of the approval not less than 6 calendar months before the approval ceases to have effect.
- (2) This Division applies in respect of an application for renewal of approval as an approved overseas higher education provider, and that renewal, as if the application were an application for a first approval as an approved overseas higher education provider.

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- (3) An approved overseas higher education provider must comply with the written requirement of the Authority that the approval certificate be surrendered to the Authority for the purpose of amending it, or replacing it, as the Authority determines appropriate on the renewal of the approval.

55I. Approval not transferable

The approval of an overseas higher education institution as an approved overseas higher education provider may not be transferred to any other person.

55J. Direction to approved overseas higher education provider

- (1) The Authority may direct an approved overseas higher education provider to take any action the Authority considers appropriate or refrain from doing any act if the Authority is of the opinion that –
- (a) the approved overseas higher education provider has contravened this Act; or
 - (b) the approved overseas higher education provider has contravened a condition to which the approval is subject; or

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- (c) it is appropriate to give the direction having taken into account the matters specified in section 55B(2) and (3); or
 - (d) the standards relating to the provision and assessment of an accredited higher education course or an approved overseas higher education course by the approved overseas higher education provider fail to meet any relevant standards or the standards proposed by that provider in its application for accreditation of the course or approval of the course as an approved overseas higher education course.
- (2) A direction is to be in writing provided to the approved overseas higher education provider.
 - (3) An approved overseas higher education provider must comply with a direction provided under this section.

55K. Cancellation of approval of higher education course

- (1) The Authority may, at any time in writing, cancel the approval of a higher education course that the approved overseas higher education provider is

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authorised to provide in Tasmania if the Authority is satisfied that it is no longer appropriate for the course to be so approved.

- (2) A cancellation takes effect on the day specified in it.

55L. Cancellation or suspension of approval of approved overseas higher education provider

- (1) The Authority may cancel or suspend the approval of an approved overseas higher education provider if, after allowing the provider an opportunity to make submissions in respect of the matter, the Authority is satisfied that –
- (a) the provider has contravened this Act; or
 - (b) the provider has contravened a condition to which the approval is subject; or
 - (c) it is appropriate to so cancel or suspend the approval having taken into account the matters specified in section 55B(2), (3) and (4); or
 - (d) the provider has not complied with a direction under section 55J

within the time specified in the direction.

- (2) The Authority is to cancel the approval of an approved overseas higher education provider if the provider has surrendered the approval certificate and requested that the approval be cancelled.

55M. Conferral or issue of approved qualification

If a person successfully completes an accredited higher education course or an approved overseas higher education course provided by an approved overseas higher education provider, that provider, by written statement or otherwise, must recognise that completion by the conferral or issue of the approved qualification or approved overseas higher education qualification for that course.

Division 5 – Self-accrediting higher education providers

55N. Application to be self-accrediting higher education provider

- (1) A person that provides, or proposes to provide, in Tasmania a higher education course may apply to the Authority for the grant of the status of self-accrediting higher education provider.
- (2) An application is to be –

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- (a) in a form approved by the Authority; and
 - (b) accompanied by any prescribed fee.
- (3) The Authority may require the applicant to provide any further information, and any permissions for the release of information, it considers relevant to the application.

55O. Grant of status of self-accrediting higher education provider

- (1) On receipt of an application under section 55N, the Authority may –
 - (a) grant to the applicant the status of self-accrediting higher education provider; or
 - (b) refuse to so grant the status of self-accrediting higher education provider.
- (2) The grant of the status of self-accrediting higher education provider may relate to any field of study at any qualification level offered or to be offered by the applicant, or to a particular field of study or a particular qualification level, or both, as specified by the Authority.
- (3) In determining whether or not to grant the status of self-accrediting higher

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education provider to an applicant, the Authority is to have regard to –

- (a) any national standards relating to the processes for awarding self-accrediting status to providers of higher education courses that are not universities; and
- (b) the effectiveness and level of governance, decision-making processes, teaching, learning, scholarship and, if relevant, research; and
- (c) the compliance with, or ability to comply with, the National Protocols for Higher Education Approval Processes; and
- (d) the structures and processes proposed to be used by the applicant in setting standards for the qualifications to be conferred or issued that are equivalent to qualifications under the Australian Qualifications Framework or, if relevant, internationally recognised qualifications; and
- (e) how long the applicant has been providing higher education courses; and
- (f) the premises, equipment, materials, staff and resources

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proposed to be used in Tasmania in respect of the higher education courses to be provided by the applicant; and

- (g) any other matter the Authority considers relevant.
- (4) The Authority may refuse, but is not obliged to refuse, to grant to an applicant the status of self-accrediting higher education provider if the applicant has less than 10 years experience in providing higher education courses.
- (5) The Authority may only grant to an applicant the status of self-accrediting higher education provider if satisfied that the applicant meets, or will meet on being granted that status, the standards required of a self-accrediting higher education institution under the National Protocols for Higher Education Approval Processes.
- (6) On granting or refusing to grant to the applicant the status of self-accrediting higher education provider, the Authority is to notify the applicant, in writing, of that decision.

55P. Grant of status subject to conditions

- (1) On granting to a person the status of self-accrediting higher education provider

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and at any other time, the Authority may –

- (a) impose conditions to which the grant is subject; and
 - (b) amend any such conditions.
- (2) A condition imposed under this section, or the amendment under this section of such a condition, takes effect on the day on which the self-accrediting higher education provider receives written notice of the condition, or amendment, or on a later day specified in that notice.

55Q. Certificate of self-accrediting status

- (1) On granting to a person the status of self-accrediting higher education provider, the Authority is to issue a certificate of self-accrediting status to the person.
- (2) A certificate of self-accrediting status is to specify –
 - (a) whether the status of self-accrediting higher education provider applies to any field of study at any qualification level offered or to be offered by the applicant, or to a particular field of study or a particular qualification level, or both; and

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- (b) if the status of self-accrediting higher education provider applies only to a particular field of study or a particular qualification level, or both, the fields of study and qualifications levels to which it applies; and
 - (c) any conditions imposed under section 55P; and
 - (d) the period for which the status of self-accrediting higher education provider is granted; and
 - (e) any other matter the Authority considers appropriate.
- (3) If the Authority under section 55P imposes conditions on the grant of the status of self-accrediting higher education provider otherwise than on the grant of that status, or amends any such conditions or the grant of status, the Authority is to amend the certificate of self-accrediting status or issue a replacement certificate of self-accrediting status.
- (4) Conditions to which the grant of the status of self-accrediting higher education provider is subject may be specified in a certificate of self-accrediting status by –
 - (a) specifying those conditions in or on the certificate; or

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- (b) attaching those conditions to the certificate; or
- (c) providing to the self-accrediting higher education provider a written notice containing those conditions.

55R. Term of grant of status

- (1) The grant of the status of self-accrediting higher education provider has effect for the period not exceeding 5 years specified in the certificate of self-accrediting status.
- (2) The grant of the status of self-accrediting higher education provider takes effect on the day the certificate of self-accrediting status is issued or on a later day specified in that certificate.

55S. Self-accreditation fee

A self-accrediting higher education provider must pay any prescribed self-accreditation fee.

55T. Amendment of grant of status

- (1) The Authority may amend the grant of the status of a self-accrediting higher education provider on the request of the

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self-accrediting higher education provider or at its own discretion.

- (2) Without limiting the amendments that may be made to the grant of the status of a self-accrediting higher education provider, the grant may be amended to expand, or limit or further limit, the fields of study or qualification levels to which that status applies.
- (3) If the Authority amends a grant of the status of self-accrediting higher education provider under subsection (1), the Authority is to –
 - (a) notify the self-accrediting higher education provider, in writing, of that amendment; and
 - (b) either endorse that amendment on the certificate of self-accrediting status or provide the self-accrediting higher education provider with a replacement certificate of self-accrediting status.
- (4) The amendment of the grant of the status of self-accrediting higher education provider takes effect on the day specified in the notice provided to that provider under subsection (3)(a).

55U. Renewal of grant of status

- (1) A self-accrediting higher education provider may apply for the renewal of the grant of the status of self-accrediting higher education provider not less than 6 calendar months before the grant ceases to have effect.
- (2) This Division applies in respect of an application for renewal of the grant of the status of self-accrediting higher education provider, and that renewal, as if the application were an application for a first grant of that status.
- (3) A self-accrediting higher education provider must comply with the written requirement of the Authority that the certificate of self-accrediting status be surrendered to the Authority for the purpose of amending it, or replacing it, as the Authority determines appropriate on the renewal of the grant of status.

55V. Grant of status not transferable

The grant of the status of self-accrediting higher education provider may not be transferred to any other person.

55W. Direction to self-accrediting higher education provider

- (1) The Authority may direct a self-accrediting higher education provider to take any action the Authority considers appropriate or refrain from doing any act if the Authority is of the opinion that –
 - (a) the self-accrediting higher education provider has contravened this Act; or
 - (b) the self-accrediting higher education provider has contravened a condition to which the grant of status is subject; or
 - (c) it is appropriate to give the direction having taken into account the matters specified in section 55O(3); or
 - (d) the self-accrediting higher education provider fails to meet the standards for a self-accrediting higher education institution set out in the National Protocols for Higher Education Approval Processes.
- (2) A direction is to be in writing provided to the self-accrediting higher education provider.

- (3) A self-accrediting higher education provider must comply with a direction provided under this section.

55X. Cancellation or suspension of grant of status

- (1) The Authority may cancel or suspend the grant of status of self-accrediting higher education provider if, after allowing the self-accrediting higher education provider an opportunity to make submissions in respect of the matter, the Authority is satisfied that –
- (a) the provider has contravened this Act; or
 - (b) the provider has contravened a condition to which the grant of status is subject; or
 - (c) it is appropriate to so cancel or suspend the grant of status having taken into account the matters specified in section 55O(3) and (5); or
 - (d) the provider fails to meet the standards for a self-accrediting higher education institution set out in the National Protocols for Higher Education Approval Processes; or

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- (e) the provider has not complied with a direction under section 55W within the time specified in the direction.
- (2) The Authority is to cancel the grant of the status of self-accrediting higher education provider if the provider has surrendered the certificate of self-accrediting status and requested that the grant of status be cancelled.

55Y. Conferral or issue of qualification

If a person successfully completes a higher education course accredited and provided by a self-accrediting higher education provider, that provider, by written statement or otherwise, must recognise that completion by the conferral or issue of the approved qualification for that course.

55Z. Standards for provision and assessment of higher education courses

A self-accrediting higher education provider is to –

- (a) set or adopt standards for the provision and assessment of the higher education courses he, she or it provides; and

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- (b) determine the qualifications that are to be conferred or issued on the successful completion of such courses.

Division 6 – Offences

55ZA. Offences relating to provision of higher education course

A person must not provide a higher education course in Tasmania unless –

- (a) that course is an accredited higher education course or approved overseas higher education course; and
- (b) that person is –
 - (i) a registered higher education provider authorised under this Act to provide that course; or
 - (ii) an approved overseas higher education provider authorised under this Act to provide that course; or
 - (iii) a self-accrediting higher education provider.

Penalty: Fine not exceeding 200 penalty units.

55ZB. Offences relating to conferral or issue of higher education award

(1) In this section –

“higher education award giver”
means –

- (a) a registered higher education provider; or
- (b) an approved overseas higher education provider; or
- (c) a self-accrediting higher education provider; or
- (d) a person who is otherwise lawfully able to confer or issue a higher education award.

(2) A person must not –

- (a) confer or issue a higher education award; or
- (b) claim, or otherwise represent in any manner, that he, she or it is authorised or able to confer or issue a higher education award; or
- (c) provide or offer to provide, or claim or otherwise represent in any manner that he, she or it is authorised or able to provide, a course the successful completion of which leads to the conferral or

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issue of a higher education award
by the person –

unless the person is a higher education
award giver lawfully able to confer or
issue that award, or a person acting on
behalf of such a higher education award
giver.

Penalty: Fine not exceeding 200 penalty
units.

- (3) A person must not claim, or otherwise
represent in any manner, that he, she or it
is authorised or able to provide a course
of study the successful completion of
which leads to the conferral or issue of a
higher education award by another
person knowing that the other person is
not lawfully able to confer or issue that
higher education award.

Penalty: Fine not exceeding 200 penalty
units.

**55ZC. Offences relating to claim to be registered,
approved overseas or self-accrediting higher
education provider**

- (1) A person who is not a registered higher
education provider must not claim, or
otherwise represent in any manner, that
he, she or it is a registered higher
education provider.

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Penalty: Fine not exceeding 200 penalty units.

- (2) A person who is not an approved overseas higher education provider must not claim, or otherwise represent in any manner, that he, she or it is an approved overseas higher education provider.

Penalty: Fine not exceeding 200 penalty units.

- (3) A person who is not a self-accrediting higher education provider must not claim, or otherwise represent in any manner, that he, she or it is a self-accrediting higher education provider.

Penalty: Fine not exceeding 200 penalty units.

55ZD. Offences by registered higher education providers

A registered higher education provider must not –

- (a) confer or issue in respect of the successful completion of an accredited course a qualification other than the approved qualification for that course; or
- (b) contravene the conditions to which the registration is subject.

Penalty: Fine not exceeding 200 penalty units.

55ZE. Offences by approved overseas higher education provider

An approved overseas higher education provider must not –

- (a) use a title other than one it is authorised to use under this Act; or
- (b) confer or issue in respect of the successful completion of an accredited course or an approved overseas higher education course a qualification other than the approved qualification or approved overseas higher education qualification for that course; or
- (c) contravene the conditions to which the approval is subject.

Penalty: Fine not exceeding 200 penalty units.

55ZF. Offences by self-accrediting higher education provider

A self-accrediting higher education provider must not claim, or otherwise

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represent in any manner that he, she or it has the status of a self-accrediting higher education provider in a field of study or qualification level in which he, she or it does not have that status.

Penalty: Fine not exceeding 200 penalty units.

55ZG. Offences relating to use of “university”, &c.

(1) In this section –

“overseas university” means a provider of higher education that –

- (a) is an overseas higher education institution; and
- (b) is declared by the Authority to be an overseas university for the purposes of this definition.

(2) A person who provides education must not use the word “university” or “universities” in his, her or its title or description, or in any other way represent that the person is a university or part of a university, unless the person is –

- (a) an Australian university or part of an Australian university; or
- (b) an overseas university or part of an overseas university; or

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- (c) the organisation known as “U3A” or the University of the Third Age; or
- (d) a prescribed person; or
- (e) otherwise authorised to do so by this Act or by or under another Act.

Penalty: Fine not exceeding 200 penalty units.

25. Parts 4A, 4B, 4C and 4D inserted

After section 55 of the Principal Act, the following Parts are inserted:

PART 4A – OTHER EDUCATION

Division 1 – Accredited other education courses

55ZH. Application for accreditation of other education course

- (1) A person who provides, or proposes to provide, an other education course in Tasmania or elsewhere may apply to the Authority for accreditation of that course.
- (2) An application is to be –
 - (a) in a form approved by the Authority; and
 - (b) accompanied by any prescribed fee.

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- (3) The Authority may require the applicant to provide any further information it considers relevant to the application.

55ZI. Accreditation of other education course

- (1) On receipt of an application under section 55ZH, the Authority may –
 - (a) accredit the other education course; or
 - (b) refuse to accredit the other education course.
- (2) In determining whether or not to accredit the other education course, the Authority is to have regard to –
 - (a) the aims and learning outcomes of the course; and
 - (b) the processes provided, or proposed to be provided, by the applicant in respect of quality assurance; and
 - (c) the delivery and assessment methods used, or proposed to be used, in respect of the course, or to be provided; and
 - (d) any other matter the Authority considers relevant.

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- (3) When accrediting an other education course, the Authority is to determine the qualification that will be conferred or issued on the successful completion of the course.
 - (4) The Authority is to notify the applicant, in writing, of its decision under this section.

55ZJ. Term of accreditation of other education course

An accredited other education course is accredited for the period, not exceeding 5 years, determined by the Authority.

55ZK. Renewal of accreditation as other education course

- (1) A person who applied for the accreditation of an other education course may apply for the renewal of the accreditation of that course not less than 6 calendar months before the accreditation ceases to have effect.
- (2) This Part applies in respect of –
 - (a) an application for renewal of the accreditation of an other education course as if the application were an application for a first accreditation as an

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accredited other education
course; and

- (b) the renewal of an other education course as if the renewal were a first accreditation as an other education course.

55ZL. Cancellation of accreditation as accredited other education course

- (1) The Authority may, at any time in writing, cancel the accreditation of an accredited other education course if –
 - (a) the person providing the course fails to meet standards set the t or adopted for the provision and assessment of the course under section 55ZN; or
 - (b) the Authority, having regard to the matters specified in section 55ZI(2), is no longer satisfied that the course should be accredited.
- (2) A cancellation takes effect on the day specified in it.

55ZM. Conferral or issue of approved qualification

If a person successfully completes an accredited other education course

provided by another person, that other person, by written statement or otherwise, must recognise that completion by the conferral or issue of the approved qualification for that course.

55ZN. Standards for provision and assessment of accredited other education courses

- (1) The Authority may set or adopt standards for the provision and assessment of an accredited other education course.
- (2) For the purpose of ensuring that the provision and assessment of an accredited other education course meets standards set under subsection (1), the Authority may give to a person providing or proposing to provide that course a written direction to do anything the Authority considers appropriate.
- (3) A person must comply with a direction given under subsection (2).

55ZO. Offence of falsely claiming to provide accredited other education course

A person who provides a course must not claim, or otherwise represent in any manner, that it is an accredited other education course unless the course is an accredited other education course.

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Penalty: Fine not exceeding 200 penalty
units.

***Division 2 – Other education otherwise than by completion
of accredited other education course***

**55ZP. Examination or assessment of other
education**

The Authority may determine procedures and arrangements, and may set, conduct or arrange for the conduct of and mark examinations and assessments, for the assessment of persons in respect of other education that has been obtained otherwise than by the successful completion of an accredited other education course.

55ZQ. Other education qualification

If a person meets the standards required by the Authority for success in an examination or assessment of the person's other education that was obtained otherwise than by the successful completion of an accredited other education course, the Authority is to issue to the person the approved qualification for that examination or assessment.

55ZR. Standards and qualifications for other education

The Authority may –

- (a) set or adopt standards for examinations and assessments of the other education obtained by a person otherwise than by the successful completion of an accredited other education course; and
- (b) determine qualifications for the successful completion of such examinations and assessments.

**PART 4B – EDUCATION FOR OVERSEAS
STUDENTS**

***Division 1 – Prohibitions relating to provision of education
to overseas students, &c.***

**55ZS. Prohibitions relating to provision of
education to overseas students, &c.**

(1) A person must not –

- (a) enrol an overseas student in an education program; or
- (b) offer to, or enter into an agreement to, enrol an overseas student in an education program; or
- (c) advertise an education program provided, or to be provided, to overseas students; or
- (d) provide an education program to overseas students –

unless the person is a registered education (overseas students) provider.

Penalty: Fine not exceeding 200 penalty units.

(2) A registered education (overseas students) provider must not –

- (a) enrol an overseas student for an education program that is not an accredited education program he,

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she or it is authorised to provide under this Act; or

- (b) offer to, or enter into an agreement to, enrol an overseas student for an education program that is not an accredited education program he, she or it is authorised to provide under this Act; or
- (c) advertise for overseas students an education program that is not an accredited education program he, she or it is authorised to provide under this Act; or
- (d) provide for overseas students an education program that is not an accredited education program he, she or it is authorised to provide under this Act.

Penalty: Fine not exceeding 200 penalty units.

Division 2 – Accreditation of education programs

55ZT. Application for accreditation of program

- (1) A person who proposes to provide an education program to overseas students may apply to the Authority for accreditation of that program for provision to overseas students.
- (2) An application is to be –

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- (a) in a form approved by the Authority; and
- (b) accompanied by any prescribed fee; and
- (c) if the application relates to an accredited course or accredited training course, accompanied by details of that accreditation; and
- (d) if the application relates to an education program that is accredited, registered or otherwise approved under a corresponding law for provision to overseas students, accompanied by –
 - (i) either evidence that the program is accredited, registered or otherwise approved under a corresponding law or the application for the course to be so accredited, registered or otherwise approved; and
 - (ii) permission in writing for the person or authority that accredits, registers or otherwise approves education programs under that corresponding law to provide to the Authority

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details of that
accreditation, registration
or other approval.

- (3) The Authority may require the applicant to provide any further information and permissions for the release of information it considers relevant to the application.

55ZU. Accreditation of education program

- (1) On receipt of an application under section 55ZT, the Authority may –
 - (a) accredit the education program for provision to overseas students; or
 - (b) refuse to so accredit the education program.
- (2) In determining whether to accredit a proposed education program for provision to overseas students, the Authority is to have regard to –
 - (a) any relevant national standards in relation to the principles, process or other matters to be applied in accrediting education programs for overseas students; and
 - (b) whether each of the following matters is adequately provided for and of sufficient standard to

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allow the conferral or issue of a qualification on the successful completion of the proposed education program:

- (i) the aims and learning outcomes of the proposed education program;
 - (ii) the scope of the studies involved in the proposed education program;
 - (iii) the manner in which the proposed education program is to be delivered;
 - (iv) the processes to be used to monitor the progress and attendance of a student;
 - (v) the assessment processes to be used to determine whether a student has achieved the learning outcomes of the proposed education program; and
- (c) whether the contents and standards of the proposed education program, and the methods of delivering the proposed education program, are consistent with any relevant national standards in relation to

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- the principles, process or other matters to be applied in accrediting or otherwise authorising education programs for overseas students; and
- (d) the place in which the proposed education program will be delivered; and
 - (e) the maximum number of overseas students that may undertake the proposed education program; and
 - (f) the duration of the proposed education program; and
 - (g) any other matter the Authority considers relevant.
- (3) In determining whether to accredit a proposed education program for provision to overseas students, if that program is accredited, registered or otherwise approved under a corresponding law for provision to overseas students, the Authority is to have regard to –
- (a) local issues that may impact on delivery of the program in Tasmania; and
 - (b) any of the matters specified in subsection (2); and
 - (c) any other relevant matter.

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- (4) The Authority may accredit a proposed education program that is accredited, registered or otherwise approved under a corresponding law for provision to overseas students without having regard to the matters specified in subsection (2) if satisfied that –
 - (a) the program is accredited, registered or otherwise approved under a corresponding law; and
 - (b) the program is to be delivered in Tasmania in substantially the same manner as in the jurisdiction where it is so accredited, registered or otherwise approved.
- (5) On accrediting a proposed education program for provision to overseas students, the Authority is to determine the qualification that will be conferred or issued on the successful completion of the program.
- (6) The Authority is to notify the applicant, in writing, as to whether it has accredited or refused to accredit the proposed education program.

55ZV. Term of accreditation of accredited education program

- (1) An accredited education program that consists of an accredited course or accredited training course is accredited for the period for which it is accredited as an accredited course or accredited training course.
- (2) If an accredited education program is accredited on the basis that it was already accredited, registered or otherwise approved under a corresponding law for provision to overseas students, the accredited education program is accredited for the period for which it is accredited, registered or otherwise approved under the corresponding law.
- (3) Any other accredited education program is accredited for the period, not exceeding 5 years, determined by the Authority.

55ZW. Accredited education program subject to conditions

- (1) The accreditation of an accredited education program is subject to any condition determined by the Authority and notified in writing to the registered education (overseas students) provider providing the accredited program.

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- (2) The Authority may at any time impose a condition on the accreditation of an accredited education program or amend the conditions to which an accredited education program is subject by notifying, in writing, the registered education (overseas students) provider providing the accredited education program.

55ZX. Renewal of accreditation as accredited education program

- (1) A person who applied for the accreditation of an education program for provision to overseas students may apply for the renewal of the accreditation of the accredited education program not less than 6 calendar months before the accreditation ceases to have effect.
- (2) This Division applies in respect of an application for renewal of the accreditation of an accredited education program, and that renewal, as if the application were an application for a first accreditation as an accredited education program.

55ZY. Cancellation of accreditation as accredited education program

- (1) The Authority, at any time by written notice provided to the registered education (overseas students) provider providing an accredited education program, may cancel the accreditation of the accredited education program if the Authority is satisfied that it is no longer appropriate for the program to be accredited for provision to overseas students.
- (2) A cancellation takes effect on the day specified in it.
- (3) On cancelling the accreditation of an accredited education program, the Authority may –
 - (a) arrange for an overseas student being provided with the accredited education program to be provided with a similar education program by that or another registered education (overseas students) provider or an education provider in another State or a Territory; and
 - (b) require the registered education (overseas students) provider who was providing that accredited education program to an overseas student to make such refund in

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relation to a fee paid for the provision of that accredited education program to the overseas student as the Authority determines to be appropriate.

- (4) A registered education (overseas students) provider must comply with a requirement made under subsection (3)(b).

Penalty: Fine not exceeding 200 penalty units.

Division 3 – Registration of education (overseas students) provider

55ZZ. Application for registration

- (1) A person who proposes to provide an education program to overseas students in Tasmania or elsewhere may apply to the Authority for registration as a registered education (overseas students) provider.
- (2) An application is to be –
- (a) in a form approved by the Authority; and
 - (b) accompanied by any prescribed fee.
- (3) The Authority may require the applicant to provide any further information, and any permissions for the release of

information, it considers relevant to the application.

55ZZA. Registration as registered education (overseas students) provider

- (1) On receipt of an application under section 55ZZ, the Authority may –
 - (a) register the applicant as a registered education (overseas students) provider; or
 - (b) refuse to so register the applicant.
- (2) In determining whether or not to register an applicant, the Authority is to have regard to –
 - (a) any national standards relating to –
 - (i) the registration, licensing, approval or other recognition of persons who provide education programs to overseas students; or
 - (ii) the provision of education programs to overseas students; and
 - (b) the processes proposed to be provided by the applicant in respect of quality assurance; and

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- (c) the delivery and assessment methods proposed to be used in respect of the education programs to be provided by the applicant; and
 - (d) the premises, equipment, materials, staff and resources proposed to be used in respect of the education programs proposed to be provided by the applicant; and
 - (e) the financial viability of the applicant; and
 - (f) the provisions proposed to be made for overseas students should the applicant be unable to provide the education program for which they are enrolled; and
 - (g) any other matter the Authority considers relevant.
- (3) On registering or refusing to register an applicant, the Authority is to notify the applicant, in writing, of that decision.

55ZZB. Registration subject to conditions

- (1) On registering a person as a registered education (overseas students) provider and at any other time, the Authority may –

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- (a) impose conditions to which the registration as a registered education (overseas students) provider is subject; and
 - (b) amend any such conditions.
 - (2) Without limiting the conditions that the Authority may impose, the Authority may impose one or more of the following conditions:
 - (a) that the registered education (overseas students) provider must hold a policy of indemnity insurance, or a guarantee, approved by the Authority;
 - (b) that the registered education (overseas students) provider must participate in an indemnity scheme approved by the Authority.
 - (3) A condition imposed under this section, or the amendment under this section of such a condition, takes effect on the day on which the registered education (overseas students) provider receives written notice of the condition, or amendment, or on a later day specified in that notice.

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55ZZC. Registration (overseas students) certificate

- (1) On registering a person as a registered education (overseas students) provider, the Authority is to issue a registration (overseas students) certificate to the person.
- (2) A registration (overseas students) certificate is to specify –
 - (a) which accredited education programs the registered education (overseas students) provider is authorised to provide; and
 - (b) which qualifications, if any, the registered education (overseas students) provider is authorised to confer or issue in respect of those programs; and
 - (c) any conditions imposed under section 55ZZB; and
 - (d) the period for which the registered education (overseas students) provider is registered; and
 - (e) any other matter the Authority considers appropriate.
- (3) If the Authority under section 55ZZB imposes conditions on the registration of the registered education (overseas students) provider otherwise than on the

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grant of that registration, or amends any such conditions, the Authority is to amend the registration (overseas students) certificate or issue a replacement registration (overseas students) certificate.

- (4) Conditions to which the registration of a registered education (overseas students) provider is subject may be specified in a registration (overseas students) certificate by –
- (a) specifying those conditions in or on the certificate; or
 - (b) attaching those conditions to the certificate; or
 - (c) providing to the registered education (overseas students) provider a written notice containing those conditions.

55ZZD. Term of registration

- (1) The registration of a registered education (overseas students) provider has effect for the period not exceeding 5 years specified in the registration (overseas students) certificate.
- (2) Registration of a person as a registered education (overseas students) provider takes effect on the day the registration

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(overseas students) certificate is issued or on a later day specified in that certificate.

55ZZE. Registration fee

A registered education (overseas students) provider must pay any prescribed registration fee.

55ZZF. Amendment of registration

- (1) The Authority may amend the registration of a registered education (overseas students) provider on the request of the registered education (overseas students) provider or at its own discretion.
- (2) If the Authority amends a registration under subsection (1), the Authority is to –
 - (a) notify the registered education (overseas students) provider, in writing, of that amendment; and
 - (b) either endorse that amendment on the registration (overseas students) certificate or provide the registered education (overseas students) provider with a replacement registration (overseas students) certificate.

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- (3) The amendment of the registration of a registered education (overseas students) provider takes effect on the day specified in the notice provided to that provider under subsection (2)(a).

55ZZG. Renewal of registration

- (1) A registered education (overseas students) provider may apply for the renewal of the registration not less than 6 calendar months before the registration ceases to have effect.
- (2) This Division applies in respect of an application for renewal of registration as a registered education (overseas students) provider, and that renewal, as if the application were an application for a first registration as a registered education (overseas students) provider.
- (3) A registered education (overseas students) provider must comply with the written requirement of the Authority that the registration (overseas students) certificate be surrendered to the Authority for the purpose of amending it, or replacing it, as the Authority determines appropriate on the renewal of the registration.

55ZZH. Registration not transferable

The registration of a person as a registered education (overseas students) provider may not be transferred to any other person.

55ZZI. Direction to registered education (overseas students) provider

- (1) The Authority may direct a registered education (overseas students) provider to take any action the Authority considers appropriate or refrain from doing any act if the Authority is of the opinion that –
 - (a) the registered education (overseas students) provider has contravened this Act; or
 - (b) the registered education (overseas students) provider has contravened a condition to which the registration is subject; or
 - (c) it is appropriate to give the direction having taken into account the matters specified in section 55ZZA(2); or
 - (d) the standards relating to the provision and assessment of an accredited education program by the registered education (overseas students) provider fail to meet

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any relevant standards or the
standards proposed by that
provider in his, her or its
application for accreditation of
the education program.

- (2) A direction is to be in writing provided to the registered education (overseas students) provider.
- (3) A registered education (overseas students) provider must comply with a direction provided under this section.

55ZZJ. Cancellation or suspension of registration

- (1) The Authority may cancel or suspend the registration of a registered education (overseas students) provider if, after allowing the provider an opportunity to make submissions in respect of the matter, the Authority is satisfied that –
 - (a) the provider has contravened this Act; or
 - (b) the provider has been found guilty of an offence under any law of Tasmania or any other place in relation to the provision of an education program to, or a dealing relating to, a person who is an overseas student or is not a citizen or permanent resident of that place; or

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- (c) the provider has contravened a condition to which the registration is subject; or
 - (d) it is appropriate to so cancel or suspend the registration having taken into account the matters specified in section 55ZZA(2); or
 - (e) it is in the public interest to so cancel or suspend the registration; or
 - (f) the provider has not complied with a direction under section 55ZZI within the time specified in the direction.
- (2) The Authority is to cancel the registration of a registered education (overseas students) provider if the provider has surrendered the registration (overseas students) certificate and requested that the approval be cancelled.
- (3) If the Authority cancels the registration of a registered education (overseas students) provider, the Authority may –
 - (a) arrange for an overseas student being provided with a registered education program or an accredited course by that provider to be provided with that registered education program or accredited course, or a similar education program or course of

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study, by another registered education (overseas students) provider or a person in another State or a Territory who is authorised under a corresponding law to provide education programs to overseas students; and

- (b) require the registered education (overseas students) provider whose registration is cancelled to make such refund in respect of any fees paid in relation to an overseas student as the Authority determines appropriate.
- (4) A registered education (overseas students) provider must comply with a requirement under subsection (3)(b) to make a refund.

Penalty: Fine not exceeding 200 penalty units.

55ZZK. Conferral or issue of approved qualification

If a person successfully completes an accredited education program provided by a registered education (overseas students) provider, that provider, by written statement or otherwise, must recognise that completion by the conferral or issue of the approved qualification for that program.

**PART 4C – RECOGNITION OF OTHER
QUALIFICATIONS**

**55ZZL. Application for recognition of other
qualifications**

- (1) A person who provides, or is proposing to provide, formal education may apply to the Authority for a qualification he, she or it confers or issues, or will confer or issue, in respect of that education to be recognised by the Authority.
- (2) An application is to be –
 - (a) in a form approved by the Authority; and
 - (b) accompanied by any prescribed fee.
- (3) The Authority may require the applicant to provide any further information it considers relevant to the application.

55ZZM. Recognition of other qualification

- (1) On receipt of an application under section 55ZZL, the Authority may –
 - (a) recognise the qualification conferred or issued, or to be conferred or issued, by the applicant; or

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- (b) refuse to so recognise that qualification.
- (2) In determining whether or not to recognise the qualification, the Authority may have regard to –
- (a) the aims and learning outcomes of the formal education; and
 - (b) the processes provided, or proposed to be provided, by the applicant in respect of quality assurance; and
 - (c) the delivery and assessment methods used, or proposed to be used, in respect of the formal education provided, or to be provided; and
 - (d) any other matter the Authority considers relevant.
- (3) The Authority is to notify the applicant, in writing, of its decision under this section.

55ZZN. Cancellation of recognition

- (1) The Authority may cancel its recognition of a recognised qualification –
- (a) at any time; and

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- (b) for any reason it considers appropriate.
- (2) Before cancelling its recognition of a recognised qualification, the Authority is to –
 - (a) notify the person who confers or issues that qualification, in writing, that it is considering cancelling the recognition of that qualification; and
 - (b) allow that person reasonable opportunity to make submissions to the Authority in respect of the matter.
- (3) The Authority is to notify the person who confers or issues the recognised qualification, in writing, of its decision under this section.

PART 4D – ESTABLISHING NEW UNIVERSITY

Division 1 – Application for establishment of new university

55ZZO. Application for recommendation for establishment of new university

- (1) A person who proposes to provide higher education courses to students, whether in Tasmania or elsewhere, at or from premises situated in Tasmania may apply to the Authority for a recommendation that a new university be established by an Act.

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- (2) An application is to be –
- (a) in a form approved by the Authority; and
 - (b) made not less than 30 months before the proposed commencement date of the higher education courses to which the application relates; and
 - (c) accompanied by any prescribed fee.
- (3) The authority may require the applicant to provide any further information it considers relevant to the application.

55ZZP. Initial assessment of application

- (1) On receipt of an application for an assessment recommendation, the Authority is to assess the application to determine whether or not the applicant may be able to meet the relevant requirements set out in the National Protocols for Higher Education Approval Processes in relation to the establishment of new universities.
- (2) In assessing the application, the Authority may make such inquiries, and inform itself in such manner, as it considers appropriate.

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- (3) The Authority is to notify the applicant, in writing, of its decision under this section.

Division 2 – Investigation of application

55ZZQ. Investigation of application

- (1) If the Authority decides under section 55ZZP that an applicant for an assessment recommendation may be able to meet the relevant requirements set out in the National Protocols for Higher Education Approval Processes in relation to the establishment of new universities, the Authority is to conduct an investigation for the purposes of making the assessment recommendation.
- (2) In conducting the investigation, the Authority must give notice of the application, and invite written submissions in relation to it, in 3 daily newspapers published and circulating generally in Tasmania.
- (3) In conducting the investigation, the Authority must –
- (a) allow the applicant a reasonable opportunity to make written submissions in relation to other submissions received by the Authority; and

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- (b) obtain advice from persons it considers expert in university administration and the fields of study which the proposed university would offer to students; and
 - (c) take into consideration all submissions received by the Authority.
 - (4) In conducting the investigation, the Authority may inform itself of any matter in any manner it considers appropriate including, but not limited to –
 - (a) holding hearings; and
 - (b) accepting oral submissions; and
 - (c) establishing a committee to advise and assist the Authority in undertaking the investigation.
 - (5) In conducting the investigation, the Authority is not bound by rules of evidence.

Division 3 – Recommendation of Authority

55ZZR. Recommendation of Authority

- (1) After conducting an investigation in respect of an application under section 55ZZQ, the Authority is to recommend to the Minister that the new university to which the application for

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the recommendation relates should or should not be established.

(2) In making the recommendation, the Authority is to consider –

- (a) the advice obtained from persons it considers expert in university administration and the fields of study which the proposed university would offer to students; and
- (b) the submissions received; and
- (c) all other evidence obtained; and
- (d) the National Protocols for Higher Education Approval Processes; and
- (e) any other relevant national standards in respect of higher education and the establishment of Australian universities; and
- (f) the processes proposed to be provided in respect of quality assurance; and
- (g) the delivery and assessment methods proposed to be used in respect of the higher education courses to be provided; and

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- (h) the processes proposed to be used in respect of course accreditation; and
 - (i) the premises, equipment, materials, staff and resources proposed to be used in respect of the higher education courses to be provided; and
 - (j) the financial viability of the applicant for the recommendation; and
 - (k) any other matter the Authority considers relevant.
- (3) An assessment recommendation –
- (a) is to set out the reasons for, and the evidence on which, the recommendation is based; and
 - (b) is to include any views or statements of a member of the Authority which are contrary to the views and statements of the Authority; and
 - (c) if the recommendation supports the establishment of a new university –
 - (i) is to include a recommendation in respect of the title of the new university taking into

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account the relevant provisions of the National Protocols for Higher Education Approval Processes; and

- (ii) may include other recommendations in respect of matters to be included in the legislation establishing the new university as the Authority considers appropriate.
- (4) Before including a recommendation in respect of the title of the new university in an assessment recommendation, the Authority is to consult with each authority, board or other person that has responsibility under a corresponding law for recommending or approving the name of a new provider of higher education that includes the term “university” or “university college”.
- (5) On making an assessment recommendation, the Authority is to notify the applicant, in writing, of that recommendation.

26. Section 56 amended (Investigations)

Section 56 of the Principal Act is amended as follows:

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- (a) by omitting paragraphs (a), (b), (c), (d), (e), (f) and (g) from subsection (1) and substituting the following paragraphs:

- (a) to determine whether or not –

(i) a course or education program should be accredited, or the accreditation of that course or education program renewed, under section 26, 36, 55ZI or 55ZU or under section 32U of the *Vocational Education and Training Act 1994*; or

(ii) the accreditation of an accredited course, accredited education program or accredited training course should be cancelled under section 29, 40, 55ZL or 55ZY or 40 or under section 32Y of the *Vocational Education and Training Act 1994*; or

- (b) to determine –

(i) under section 43 or 55ZZA, an application by a person to be registered as a registered higher

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education provider or
registered education
(overseas students)
provider, or an application
for the renewal of such
registration; or

(ii) under section 55B, an
application by an overseas
higher education
institution to be an
approved overseas higher
education provider, or an
application for the
renewal of such approval;
or

(iii) under section 55O, an
application by a person
for the grant of the status
of self-accrediting higher
education provider, or an
application for the
renewal of such grant of
status; or

(iv) under section 33E, an
application by an
institution or other person
to be registered as a
registered student
exchange organisation or
for the renewal of such
registration; or

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- (v) under section 55ZZM, an application by a person for the Authority to recognise a qualification the person confers or issues or proposes to confer or issue; or
 - (vi) under section 55ZZO, an application for an assessment recommendation; or
 - (vii) under section 31 of the *Vocational Education and Training Act 1994*, an application by a person to be registered as a registered training organisation or for the renewal of such registration; or
 - (c) to determine whether or not conditions should be imposed on –
 - (i) the accreditation of a higher education course, or of an education program; or
 - (ii) the registration of a person as a registered higher education provider, registered education

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(overseas students)
provider or registered
training organisation; or

(iii) the approval of an
overseas higher education
institution as an approved
overseas higher education
provider; or

(iv) the grant to a person of
the status of self-
accrediting higher
education provider –

and whether or not any such
conditions should be amended; or

(d) to determine whether or not to
amend –

(i) the registration of a
registered higher
education provider,
registered education
(overseas students)
provider or a registered
training organisation; or

(ii) the approval of an
approved overseas higher
education provider; or

(iii) the grant to a person of
the status of self-
accrediting higher
education provider; or

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- (iv) the registration of a registered student exchange organisation; or
 - (e) to determine whether or not the conditions to which the provision of an accredited course or accredited education program is subject are being complied with by the person providing that course or program; or
 - (f) to determine whether or not a registered higher education provider, registered education (overseas students) provider, registered training organisation, approved overseas higher education provider or self-accrediting higher education provider is complying with the conditions to which the registration, approval or grant of status is subject; or
 - (g) to determine whether or not a registered student exchange organisation is complying with any guidelines issued under section 33L; or
 - (ga) to monitor the standard of an accredited course, accredited education program or accredited training course being provided by a person; or

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- (gb) to determine or approve a qualification under section 26(4)(b), section 33C(b), section 36(3), section 55B(5)(c), section 55ZI(3), section 55ZR(b) and section 55ZU(5); or
- (gc) to determine whether or not to recognise a qualification under section 55ZZM(1); or
- (gd) to monitor the appropriateness of an approved qualification, a qualification in respect of an accredited training course or a recognised qualification conferred or issued, or proposed to be conferred or issued; or
- (b) by omitting from subsection (1)(h) “being” and substituting “being, or have been,”;
- (c) by omitting subsection (3) and substituting the following subsection:
 - (3) The Authority, by written notice provided to a registered higher education provider, registered education (overseas students) provider, approved overseas higher education provider, self-accrediting higher education provider, registered student exchange organisation, registered training organisation or person

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who confers or issues a recognised qualification, may require that provider, organisation or person to pay a fee in respect of an investigation under this section, other than an investigation relating to an application for –

- (a) the registration or approval as such a provider or organisation; or
 - (b) the grant of status as such a self-accrediting higher education provider; or
 - (c) the recognition of a qualification as a recognised qualification.
- (d) by omitting subsection (5) and substituting the following subsection:
- (5) A registered higher education provider, registered education (overseas students) provider, approved overseas higher education provider, self-accrediting higher education provider, registered student exchange organisation, registered training organisation or person who confers or issues a recognised qualification must pay

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any fee he, she or it is required to pay under subsection (3).

27. Section 57 amended (Inspections)

Section 57(1) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “intended” after “or is”;
- (b) by omitting subparagraph (i) from paragraph (a) and substituting the following subparagraph:
 - (i) the provision of an accredited course or accredited education program, or of an accredited training course provided by a local registered training organisation; or
- (c) by inserting in paragraph (a)(ii) “or a recognised qualification,” after “approved qualification”;
- (d) by omitting from paragraph (a)(ii) “organisation;” and substituting “organisation; or”;
- (e) by inserting the following subparagraph after subparagraph (ii) in paragraph (a):
 - (iii) a student exchange program;

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- (f) by omitting subparagraph (i) from paragraph (b) and substituting the following subparagraph:
 - (i) the provision of accredited courses, accredited education programs, accredited training courses or other higher education courses; or
 - (g) by omitting from paragraph (b)(ii) “qualifications” first occurring and substituting “qualifications, recognised qualifications”;
 - (h) by inserting the following subparagraph after subparagraph (ii) in paragraph (b):
 - (iia) a student exchange program; or
 - (i) by inserting the following subparagraphs after subparagraph (iii) in paragraph (b):
 - (iiia) a contravention of a condition to which the accreditation of an accredited course, accredited training course or accredited education program is subject; or
 - (iiib) a contravention of a condition to which the registration of a registered higher education provider, registered education (overseas students) provider or registered training organisation, the approval of an approved overseas higher education

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- provider or the grant of the status of self-accrediting higher education provider is subject; or
- (iiic) a contravention of guidelines issued under section 33L; or

28. Section 60 amended (Review of decisions)

Section 60 of the Principal Act is amended as follows:

- (a) by inserting the following paragraphs after paragraph (b):
 - (ba) a refusal under section 55B(5)(b) to approve a course as an approved overseas higher education course or to renew the approval of such a course;
 - (bb) a refusal to accredit a course of study as an accredited other education course or to renew the accreditation of such a course of study;
 - (bc) a refusal under section 55ZI to accredit an education program as an accredited education program or to renew the accreditation of such a program;
- (b) by inserting the following subparagraphs after subparagraph (ii) in paragraph (d):

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- (iia) under section 55K of the approval of an approved overseas higher education course; or
 - (iib) under section 55ZL of the accreditation of an accredited other education course; or
 - (iic) under section 55ZY of the accreditation of an accredited education program; or
- (c) by inserting the following paragraphs after paragraph (e):
 - (ea) a refusal under section 55B to approve an overseas higher education institute as an approved overseas higher education provider or to renew the approval of an approved overseas higher education provider;
 - (eb) a refusal to grant to a person the status of a self-accrediting higher education provider or to renew the grant of status of a self-accrediting higher education provider;
 - (ec) a refusal under section 55ZZA to register a person as a registered education (overseas students) provider or to renew the registration of a registered education (overseas students) provider;

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(d) by omitting paragraph (g) and substituting the following paragraph:

(g) the cancellation or suspension –

- (i) under section 52 of the registration of a registered higher education provider; or
- (ii) under section 55L of the approval of an approved overseas higher education provider; or
- (iii) under section 55X of the grant of status as self-accrediting higher education provider of a self-accrediting higher education provider; or
- (iv) under section 55ZZJ of the registration of a registered education (overseas students) provider;

29. Section 61 amended (Registers)

Section 61 of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

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- (1) The Authority must establish and maintain one or more registers as it considers appropriate to record details in respect of the following matters:
- (a) accredited courses and the approved qualifications for those courses;
 - (b) registered higher education providers, the accredited higher education courses that such providers may provide and the approved qualifications for those courses;
 - (c) registered education (overseas students) providers, the accredited courses and accredited education programs that such providers may provide and the approved qualifications for those courses and programs;
 - (d) approved overseas higher education providers, the approved overseas higher education courses that such providers may provide and the approved

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qualifications for those courses;

(e) self-accrediting higher education providers, the accredited higher education courses that such providers may provide and the approved qualifications for those courses;

(f) registered student exchange organisations;

(g) any other approved qualifications;

(h) recognised qualifications;

(i) any other matter the Authority considers appropriate.

(b) by omitting from subsection (2)(a) “by the Australian National Training Authority”.

30. Section 64 amended (Rules)

Section 64(2) of the Principal Act is amended by omitting paragraphs (a), (b), (c) and (d) and substituting the following paragraphs:

(a) the assessment procedures for –

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-
- (i) an accredited course, accredited education program, accredited training course, approved overseas higher education course or other course of study; and
 - (ii) an examination or assessment in senior secondary education or other education under Division 2 of Part 3 or Division 2 of Part 4A; and
 - (b) the eligibility of a person –
 - (i) to take an examination or assessment in an accredited course, accredited education program, accredited training course, approved overseas higher education course or other course of study; and
 - (ii) to take an examination or assessment in senior secondary education or other education under Division 2 of Part 3 or Division 2 of Part 4A; and
 - (c) the conduct of a person during –
 - (i) an examination or assessment in an accredited course, accredited education program, accredited training course, approved overseas higher education course or other course of study; and

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- (ii) an examination or assessment in senior secondary education or other education under Division 2 of Part 3 or Division 2 of Part 4A; and
- (d) the conferral or issue of an approved qualification or a qualification for an accredited training course; and

31. Sections 64A and 64B inserted

Before section 65 of the Principal Act, the following sections are inserted in Part 9:

64A. Consolidated statements of qualifications

- (1) On the request of a person and payment of any prescribed fee, the Authority is to provide to the person a statement specifying –
 - (a) all the approved qualifications conferred on or issued to the person; and
 - (b) all the recognised qualifications conferred on or issued to the person; and
 - (c) any other qualifications conferred on or issued to the person that the Authority considers appropriate to be specified in the statement.

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- (2) On the request of a person and payment of any prescribed fee, the Authority may provide to the person a statement that compares qualifications conferred on or issued to the person for completion of formal education or training in another State, a Territory or a country other than Australia with qualifications that may be conferred or issued under this Act for similar formal education or training.

64B. Providing information to authorities, &c., under corresponding laws

- (1) In this section –

“interstate authority” means an authority, body or other person responsible under a corresponding law for –

- (a) the accreditation, registration, licensing or other approval of a course of study or another education program; or
- (b) the registration, accreditation, licensing or other approval of a provider of education.
- (2) The Authority may provide to an interstate authority any information it has or obtains in the performance and exercise of its functions and powers in relation to –

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- (a) a course of study or another education program provided or proposed to be provided in Tasmania or elsewhere; and
 - (b) a person who provides, or has made an application under this Act in relation to a proposal to provide, a course of study or another education program; and
 - (c) a person who has been found guilty of an offence against this Act or who has had his, her or its registration, approval or grant of self-accrediting status under this Act cancelled or suspended.
- (3) The Authority may provide to a person responsible for the registration, licensing, approval or other recognition of an organisation or other person that proposes to oversee or manage a student exchange program in another State or a Territory any information that it has or obtains in the performance and exercise of its functions and powers in relation to –
 - (a) the registration, and the application for registration, of an organisation or other person as a registered student exchange organisation; and

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- (b) the suspension or cancellation of such registration.

32. Section 70 amended (Evidentiary matters)

Section 70 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) In any proceedings under this Act, a certificate signed or purporting to be signed by the chief executive officer and relating to one or more of the following matters is evidence of the matters specified in it:
- (a) whether or not at the specified time a course of study or education program was an accredited course, approved overseas higher education course or accredited education program;
 - (b) whether or not at the specified time –
 - (i) a person, institution or organisation was a registered higher education provider, approved overseas higher education provider, self-accrediting higher education provider, registered education

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(overseas students)
provider or registered
student exchange
organisation; and

- (ii) such registration or approval was suspended;
- (c) whether or not at the specified time a person was authorised or able under this Act to confer or issue a specified approved qualification;
- (d) whether or not at the specified time any of the following was subject to a specified condition:
 - (i) an accredited course;
 - (ii) an accredited education program;
 - (iii) a registration as a registered higher education provider;
 - (iv) an approval as an approved overseas higher education provider;
 - (v) a grant of the status of self-accrediting higher education provider;
 - (vi) a registration as a registered education

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(overseas students)
provider;

- (e) whether or not at the specified time a qualification was an approved qualification or recognised qualification.

33. Section 72 amended (Regulations)

Section 72(6) of the Principal Act is amended by inserting after paragraph (d) the following paragraph:

- (da) the repeal of the *Education Providers Registration (Overseas Students) Act 1991* by the *Tasmanian Qualifications Authority Amendment Act 2007*;

34. Section 73A inserted

After section 73 of the Principal Act, the following section is inserted in Part 9:

73A. Savings and transitional provisions consequent on *Tasmanian Qualifications Authority Amendment Act 2007*

- (1) In this section –

“**commencement day**” means the day on which the *Tasmanian Qualifications Authority*

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commences;

“education service” has the same meaning as in the repealed Act;

“former approved student exchange organisation” means an organisation that immediately before the commencement day was approved in respect of a student exchange program by the Department;

“registered education provider” has the same meaning as in the repealed Act;

“registered education service” has the same meaning as in the repealed Act;

“repealed Act” means the *Education Providers Registration (Overseas Students) Act 1991* as in force immediately before the commencement day.

- (2) If immediately before the commencement day a person is a registered education provider, that person is taken to be registered under Division 3 of Part 4B as a registered education (overseas students) provider subject to the same conditions and for the same term as the registration under the repealed Act.

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-
- (3) If an application to be registered as a registered education provider, or for the renewal of such registration, is made under the repealed Act before the commencement day but is not determined by that day, the application is taken to be an application for registration as a registered education (overseas students) provider, or the renewal of such registration, made to the Authority under Division 3 of Part 4B and may be determined by the Authority under that Division.
 - (4) A certificate of registration, within the meaning of the repealed Act, issued and in force under the repealed Act immediately before the commencement day is taken to be a registration (overseas students) certificate.
 - (5) If immediately before the commencement day an education service is a registered education service, that education service is taken to be accredited under Division 2 of Part 4B as an accredited education program subject to the same conditions and for the same term as the registration under the repealed Act.
 - (6) If an application for the registration of an education service, or for the renewal of such registration, is made under section 11 of the repealed Act before the commencement day but is not

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determined by that day, the application is taken to be an application for the accreditation of an education program made to the Authority under Division 2 of Part 4B and may be determined by the Authority under that Division.

- (7) If a person is entitled immediately before the commencement day to appeal against a refusal under the repealed Act to register an education provider or an education service, that person may apply for a review of that decision under section 60 and for that purpose that decision is taken to be a decision of the Authority to refuse to register a person as a registered education (overseas students) provider under section 55ZZA(1)(b) or to refuse to accredit an education program as an accredited education program under section 55ZU(1)(b).
- (8) If before the commencement day a person institutes an appeal against a refusal under the repealed Act to register an education provider or an education service but that appeal is not determined by that day, that appeal may be continued under the repealed Act and for that purpose –
 - (a) the Authority stands in the place of the Minister; and
 - (b) if the Authority is directed by the magistrate hearing the appeal to

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reconsider the application, the Authority is to reconsider the application as if it were an application for registration as a registered education (overseas students) provider made under Division 3 of Part 4B or for the accreditation of an education program under Division 2 of that Part.

- (9) A document or other record that was in the possession of an authorized officer under section 28 of the repealed Act immediately before the commencement day is taken to be in the possession of the Authority and –
- (a) sections 58 and 59 apply in relation to that document or other record as if it were obtained under Part 5 of this Act; and
 - (b) for the purposes of the application of sections 58 and 59 –
 - (i) a reference to the purposes of this Act includes a reference to the purposes of the repealed Act; and
 - (ii) a reference to an offence under this Act includes a

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reference to an offence
under the repealed Act.

- (10) A former approved student exchange program is taken to have been registered as a registered student exchange program under section 33E for the period of 3 years commencing on the commencement day.

**PART 3 – VOCATIONAL EDUCATION AND
TRAINING ACT 1994 AMENDED**

35. Principal Act

In this Part, the *Vocational Education and Training Act 1994** is referred to as the Principal Act.

36. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended by omitting the definition of “industry training advisory body”.

37. Section 77 amended (Records)

Section 77 of the Principal Act is amended by omitting “Committee, the Qualifications Authority” and substituting “Committee”.

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Part 4 – Legislation Repealed and Rescinded

**PART 4 – LEGISLATION REPEALED AND
RESCINDED**

38. Legislation repealed

The legislation specified in Schedule 1 is repealed.

39. Legislation rescinded

The legislation specified in Schedule 2 is rescinded.

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SCHEDULE 1 – LEGISLATION REPEALED

Section 38

Education Providers Registration (Overseas Students) Act
1991 (No. 45 of 1991)

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sch. 2

SCHEDULE 2 – LEGISLATION RESCINDED

Section 39

Education Providers Registration (Overseas Students)
Regulations 2005 (No. 106 of 2005)