



Tertiary Education Quality and Standards Agency Amendment Act 2019

No. 98, 2019

**An Act to amend the *Tertiary Education Quality and
Standards Agency Act 2011*, and for related
purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Amendments		3
	<i>Tertiary Education Quality and Standards Agency Act 2011</i>	3



Tertiary Education Quality and Standards Agency Amendment Act 2019

No. 98, 2019

An Act to amend the *Tertiary Education Quality and Standards Agency Act 2011*, and for related purposes

[Assented to 30 October 2019]

The Parliament of Australia enacts:

1 Short title

This Act is the *Tertiary Education Quality and Standards Agency Amendment Act 2019*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	31 October 2019

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Tertiary Education Quality and Standards Agency Act 2011

1 Section 5 (paragraphs (c) to (e) of the definition of *Higher Education Standards Framework*)

Repeal the paragraphs.

2 Section 5 (definition of *Research Standards*)

Repeal the definition.

3 Subsection 58(1) (heading)

Repeal the heading, substitute:

Making the standards

4 Subsection 58(1)

Omit “, together with the *Research Standards*,”.

5 Paragraphs 58(1)(f) and (g)

Repeal the paragraphs.

6 Subsection 58(2)

Repeal the subsection.

7 Subsection 58(3)

Omit “A Minister”, substitute “The Minister”.

8 Paragraph 58(3)(b)

Omit “that Minister”, substitute “the Minister”.

9 Subparagraph 58(3)(b)(ii)

Repeal the subparagraph, substitute:

- (ii) if the Minister is not also the Research Minister—the Research Minister;

10 Subsection 58(4)

Omit “a Minister”, substitute “the Minister”.

11 Subsection 58(4)

Omit “that Minister” (wherever occurring), substitute “the Minister”.

12 Subparagraph 58(4)(b)(ii)

Repeal the subparagraph, substitute:

- (ii) if the Minister is not also the Research Minister—the Research Minister.

13 Section 60

Before “TEQSA may”, insert “(1)”.

14 At the end of section 60

Add:

- (2) At least 60 days before starting a review or examination that TEQSA is satisfied could impact on a majority of registered higher education providers, TEQSA must give written notice of the proposed review or examination to the Minister and the Panel.

15 Subparagraphs 108(1)(a)(ii) and (2)(a)(ii)

After “provided”, insert “wholly or mainly”.

16 Subsection 138(4)

Repeal the subsection, substitute:

- (3) A person may only be appointed as a Commissioner if the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

Note: A Commissioner is eligible for reappointment: see section 33AA of the *Acts Interpretation Act 1901*.

17 Subsection 147(3)

Repeal the subsection (not including the note), substitute:

Requirements before appointing a person to act

- (3) A person may only be appointed to act as the Chief Commissioner, or as a Commissioner, if the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

18 Subsection 149(3)

Omit “2 Commissioners”, substitute “a majority of Commissioners”.

19 After paragraph 167(2)(a)

Insert:

- (aa) ensure the Panel members collectively have contemporary experience in the provision of higher education by higher education providers that are universities and that are not universities; and

20 Subparagraph 167(2)(b)(iii)

Omit “providers; and”, substitute “providers.”.

21 Paragraph 167(2)(c)

Repeal the paragraph.

22 Paragraph 168(1)(a)

Omit “or the Research Minister”.

23 Paragraph 168(1)(a)

Omit “that Minister”, substitute “the Minister”.

24 At the end of subsection 168(1)

Add:

; and (c) to advise and make recommendations to TEQSA about:

- (i) TEQSA’s strategic objectives, corporate plan, performance against that plan, reform agenda, streamlining of activities and resourcing requirements; or
(ii) approaches to deregulation, including by the application of principles relating to regulatory necessity, risk and

proportionality in respect of different types of higher education providers;
if requested by TEQSA or on the Panel's own initiative.

25 Subsection 170(3)

Omit "After consulting the Research Minister, the", substitute "The".

26 At the end of section 188

Add:

- (3) Subsection (1) does not apply if the regulated entity in respect of whom the higher education information relates has consented, in writing, to the disclosure or use.

Note: A defendant bears an evidential burden in relation to a matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

27 Section 192

Repeal the section, substitute:

192 Disclosing information to the Minister and Department

- (1) For the purposes of administering laws relating to higher education, TEQSA may disclose information covered by subsection (2) to:
- (a) the Minister; or
 - (b) a person employed as a member of staff of the Minister under section 13 or 20 of the *Members of Parliament (Staff) Act 1984*; or
 - (c) the Secretary; or
 - (d) an APS employee in the Department.
- (2) This subsection covers the following information:
- (a) higher education information;
 - (b) information, relating to a regulated entity, that is obtained by TEQSA, that relates to TEQSA's functions and that is personal information (within the meaning of the *Privacy Act 1988*).

28 After section 195

Insert:

195A Disclosing information to other persons*Disclosure*

- (1) TEQSA may disclose higher education information to a person referred to in subsection (3) for the purposes of research relating to the provision of higher education, including research relating to:
 - (a) quality assurance; or
 - (b) planning the provision of higher education.
- (2) However, if the information was provided by a regulated entity, TEQSA may disclose the information under subsection (1) only if the entity has consented, in writing, to that disclosure.

Persons to whom information may be disclosed

- (3) For the purposes of subsection (1), the persons are the following:
 - (a) a person who is employed or engaged by a higher education provider;
 - (b) a person who is employed or engaged by a body determined in an instrument under subsection (4).
- (4) TEQSA may, by legislative instrument, determine a body for the purposes of paragraph (3)(b).

195B Disclosing information to complainants

TEQSA may disclose higher education information to a person if:

- (a) the person has made a complaint to TEQSA relating to a regulated entity's compliance with:
 - (i) this Act; or
 - (ii) the *Education Services for Overseas Students Act 2000*;
or
 - (iii) a legislative instrument under either of those Acts; and
- (b) TEQSA is satisfied that the information relates to the matter the subject of the complaint.

29 Section 197

Omit “Sections”, substitute “Paragraph 192(1)(d) and sections”.

30 Section 197

After “195”, insert “, 195A, 195B”.

31 Application provisions

- (1) The amendments of section 108 of the *Tertiary Education Quality and Standards Agency Act 2011* made by this Schedule apply in relation to uses of the word “university” on or after the commencement of this item.
- (2) The amendment of section 149 of the *Tertiary Education Quality and Standards Agency Act 2011* made by this Schedule applies in relation to meetings held on or after the commencement of this item.
- (3) The amendments of section 167 of the *Tertiary Education Quality and Standards Agency Act 2011* made by this Schedule apply in relation to appointments made on or after the commencement of this item.
- (4) The amendment of section 188 of the *Tertiary Education Quality and Standards Agency Act 2011* made by this Schedule applies in relation to the disclosure or use of higher education information on or after the commencement of this item (whether the information was obtained before, on or after that commencement).
- (5) Section 192 of the *Tertiary Education Quality and Standards Agency Act 2011*, as substituted by this Schedule, applies in relation to the disclosure of information on or after the commencement of this item (whether the information was obtained before, on or after that commencement).
- (6) Sections 195A and 195B of the *Tertiary Education Quality and Standards Agency Act 2011*, as inserted by this Schedule, apply in relation to the disclosure of higher education information on or after the commencement of this item (whether the information was obtained before, on or after that commencement).

*[Minister's second reading speech made in—
Senate on 25 July 2019
House of Representatives on 23 October 2019]*

(127/19)

No. 98, 2019

*Tertiary Education Quality and Standards Agency Amendment Act
2019*

9