



Tertiary Education Quality and Standards Agency (Matters Relevant to the Approval of Domain Names) Determination 2021

I, Alan Tudge, Minister for Education and Youth, make the following determination.

Dated 12 April 2021

Alan Tudge
Minister for Education and Youth

Contents

1	Name	1
2	Commencement.....	1
3	Authority	1
4	Definitions.....	1
5	Criteria for granting approval.....	2

1 Name

This instrument is the *Tertiary Education Quality and Standards Agency (Matters Relevant to the Approval of Domain Names) Determination 2021*.

2 Commencement

- (1) Each provision of this instrument 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
The whole of the instrument	<i>The day after the instrument is registered.</i>	

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under subsection 204A(10) of the *Tertiary Education Quality and Standards Agency Act 2011*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:

- (a) higher education provider;
- (b) TEQSA.

In this instrument:

Act means the *Tertiary Education Quality and Standards Agency Act 2011*.

Education services means the delivery or provision of education or training, including tutoring or instruction of any kind, and the undertaking of activities intended to directly support the delivery of education or training such as governance, management and student advisory or support services.

Government related entity has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

5 Criteria for granting approval

In deciding whether or not to give approval to an applicant seeking to use a specified domain name under subsection 204A(4) of the Act, the Minister must have regard to the following matters, as applicable, whether:

- (a) the applicant intends to provide education services or information about education services;
- (b) the use of the domain name is likely to mislead people about the connection between the domain name and an Australian higher education provider with the right to use the word university in its name;
- (c) the application is for a domain name that includes ‘.gov.au’ or ‘.edu.au’ domain names and includes the word ‘university’;
- (d) the applicant is or proposes to become registered by TEQSA in a category that permits the use of the word university;
- (e) the applicant has obtained the Minister’s consent to use the word ‘university’ in relation to a company name that is substantially the same as the domain name under section 147 of the *Corporations Act 2001*, or a business name that is substantially the same as the domain name under section 28 of the *Business Names Registration Act 2011* and in accordance with any legislative instrument made under those sections;
- (f) the applicant is an overseas university approved to operate in its home country by that country’s registration or accreditation authority;
- (g) the applicant is the owner or authorised user of a registered trademark that is an exact match of the domain name;
- (h) the application is supported in writing by an Australian higher education provider with the right to use the word university in its name;
- (i) the applicant receives funding under the Regional Universities Centres Program under Part 2-3 of the *Higher Education Support Act 2003*; and
- (j) the applicant is a Government related entity.

6 Criteria for revoking approval

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* states that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

To avoid doubt, in deciding whether or not to revoke approval to an applicant who has sought to use a specified domain name under subsection 204A(4) of the Act, the Minister must also have regard to the criteria listed in section 5.