

EXPLANATORY STATEMENT

Tertiary Education Quality and Standards Agency (Information) Guidelines 2017 (Amendment) No. 1 of 2022

Issued by the authority of the Tertiary Education Quality and Standards Agency (TEQSA)

Authority

Section 204 of the *Tertiary Education Quality and Standards Agency Act 2011* (the Act) allows TEQSA to make, by legislative instrument, Information Guidelines.

Purpose and Description of the provisions

The Information Guidelines 2017 is a legislative instrument that sets out the Commonwealth authorities and the State or Territory authorities to which TEQSA may disclose higher education information under sections 189 and 194 of the Act.

Additions

This amendment inserts new rows into Schedule A to add Audit, Anti-Corruption and Regulatory Authorities to the list of Commonwealth, State and Territory authorities to which TEQSA may disclose higher education information. The following authorities have been added to Schedule A:

Audit Authorities

- 1.) Australian Capital Territory Audit Office (Item 2A)
- 2.) Auditor-General's Department (South Australia) (Item 9A)
- 3.) Audit Office of New South Wales (Item 9B)
- 4.) Australian National Audit Office (Item 17A)
- 5.) Northern Territory Auditor-General's Office (Item 59A)
- 6.) Office of the Auditor General (Western Australia) (Item 66A)
- 7.) Queensland Audit Office (Item 80A)
- 8.) Tasmanian Audit Office (Item 89A)
- 9.) Victorian Auditor-General's Office (Item 108A)

Anti-Corruption Authorities

- 1.) Australian Capital Territory Integrity Commission (Item 3A)
- 2.) Corruption and Crime Commission (Western Australia) (Item 30A)
- 3.) Crime and Corruption Commission (Queensland) (Item 30B)
- 4.) Independent Broad-Based Anti-Corruption Commission (Victoria) (Item 49A)
- 5.) Independent Commission Against Corruption (New South Wales) (Item 49B)
- 6.) Independent Commissioner Against Corruption (South Australia) (Item 49C)
- 7.) Integrity Commission Tasmania (Item 49D)
- 8.) Office of the Independent Commissioner Against Corruption (Northern Territory) (Item 67A)

Regulatory Authority

1.) Australian Communications and Media Authority (Item 12A)

The inclusion of these bodies will ensure that TEQSA is capable of sharing relevant information with appropriate Commonwealth, State and Territories agencies about matters involving registered higher education providers. Some of the information that is contemplated to be shared includes:

- Information that relates to an offence, or possible offence against the Act or the *Education Services for Overseas Students Act 2000*
- Information that relates to a contravention, or possible contravention of the Act, *Education Services for Overseas Students Act 2000*, *Higher Education Support Act 2003* or legislative instruments made under any of those Acts.

TEQSA may also disclose higher education information to the appropriate Commonwealth, State and Territories agencies to enable or assist these agencies to perform or exercise any of the agency's functions or powers.

Technical amendments

Technical amendments have been made to the ordering of some of the agencies listed in Schedule A. This is to ensure that all agencies listed are in alphabetical order.

These amendments are set out in Items 7, 8, 11 – 15, 19 – 22 and 24 – 26 of this amending instrument.

Commencement

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*. The instrument will commence in accordance with the table set out in section 2 of the instrument.

Consultation

TEQSA consulted with the sector and published a consultation paper on TEQSA's website (<https://www.teqsa.gov.au/consultation>) in October 2021.

TEQSA asked for submissions on the proposed authorities for addition in the Information Guidelines 2017 within a month of the date on which the paper was published. TEQSA also referred to the consultation paper in its monthly electronic newsletter distributed to higher education providers, peak bodies and other stakeholders.

TEQSA received no submissions in response to the consultation.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the instrument is to set out the Commonwealth authorities and the State or Territory authorities to which the Tertiary Education Quality and Standards Agency (TEQSA) may disclose higher education information under section 189 and 194 of the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).

Human rights implications

The Instrument engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. In particular, this instrument has an effect on the provision of education services by higher education providers.

To the extent that the right to education is engaged, this right is promoted by the Legislative Instrument, by improving the capacity to share information between agencies, thereby reducing the need for multiple collections of information and allowing higher education providers to focus on the delivery of high quality education.

Conclusion

This Instrument is compatible with human rights because it advances the protection of human rights.

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