

## **EXPLANATORY STATEMENT**

### ***Tertiary Education Quality and Standards Agency Determination of Fees (Amendment) 2022***

Issued by the authority of the Tertiary Education Quality and Standards Agency

**Subject:** *Tertiary Education Quality and Standards Agency Determination of Fees (Amendment) 2022*

#### **Authority**

Subsection 158(1) of the *Tertiary Education Quality and Standards Agency Act 2011* (the Act) allows TEQSA to determine, by legislative instrument, fees that TEQSA may charge for things done in the performance of its functions.

The required approval from the Minister for TEQSA to make an instrument under subsection 158(1) was obtained, per the requirement in subsection 158(5) of the Act, on 14 November 2022.

#### **Purpose and operation**

The purpose of this instrument is to amend the Determination of Fees No. 1 of 2020 (Fee Instrument) to reflect a decision by the Australian Government in the 2018-2019 Budget to implement revised cost recovery arrangements for the Tertiary Education Quality and Standards Agency (TEQSA). Historically, TEQSA has recovered approximately 15% of its costs via the fees set out in the Fee Instrument but, from 1 January 2023, TEQSA will be moving toward a model under which it recovers 90% of its costs.

The new cost recovery model has necessitated the implementation of a new registered higher education provider charge, imposed by the *Tertiary Education Quality and Standards Agency (Charges) Act 2021*, but will also require amendments to the current Fee Instrument. The amendments made by this instrument to the current Fee Instrument reflect the updated fees set out in the Cost Recovery Implementation Statement (CRIS) published by TEQSA in October 2022.

The CRIS was drafted following the Government decision to implement revised cost recovery arrangements for TEQSA and sets out how TEQSA will implement the transition to 90 percent cost recovery for its regulatory and quality assurance services and activity from 1 January 2023. The model for cost recovery set out in the CRIS is consistent with the *Australian Government Charging Framework*.

## **Consultation**

TEQSA undertook public consultation on its revised cost recovery arrangements, including updated fees, with higher education sector stakeholders between April and June 2021. TEQSA received 39 stakeholder submissions through the consultation process, including from peak bodies and individual higher education providers.

Stakeholders expressed concerns regarding the complexity of the cost recovery model, the timing of implementation (given the impacts of COVID-19) and the regressive nature of the annual provider charge (charged at a flat rate to all providers). There was qualified acceptance of features including fees reflecting regulatory effort and discounts on the fees associated with accreditation based on provider size.

The concerns about complexity of the model informed TEQSA's decision to simplify the fee for renewal of registration, with two tiers based on the scope of an assessment. The decision made by the Government to delay implementation by one year, to 1 January 2023, was also informed by the concerns raised with regard to timing.

Other issues raised by stakeholders were relevant to the charge imposed under the *Tertiary Education Quality and Standards Agency (Charges) Act 2021*, or raise matters where TEQSA's approach is prescribed by the Australian Government Charging Framework. On this basis, and as there had already been sufficient consultation on the cost recovery model, TEQSA considered that further consultation was not required in 2022.

In keeping with the cost recovery framework and guidelines, TEQSA will continue to consult closely with the sector on both the administrative arrangements for implementing cost recovery, and on the impacts on providers. The consultations will form the basis for adjustments to the model and possible subsequent revisions to the fees set out in this instrument.

## **Commencement**

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003* and will commence on 1 January 2023.

## **Description of the provisions**

### **Preliminary**

Section 1 of the instrument provides that the name of the instrument is the *Tertiary Education Quality and Standards Agency Determination of Fees (Amendment) 2022*.

Section 2 provides that the amendments to the current fee instrument will commence on 1 January 2023.

Section 3 provides that the instrument has been made under subsections 158(1) and 158(3) of the Act.

Section 4 provides that the instrument amends the current fee instrument as set out in Schedule 1.

## Schedule 1

Items 1 - 5 and 7 of the Schedule to the instrument insert the following definitions:

1. Core Standards: this definition provides that the 'Core Standards' are Standards 5.1.2, 5.2.1, 5.3.7, 6.1.3, 6.2.1 and 6.3 of the Threshold Standards (Item 7 of the Schedule inserts a definition of 'Threshold Standards'). This definition has been inserted because the fee a provider will be required to pay under item 3 and 4 of the Table in Schedule A will depend upon whether the approved form for the application requires the applicant to address Threshold Standards other than those Core Standards described in this definition.
2. ELICOS: this definition provides that 'ELICOS' means English Language Intensive Course for Overseas Students. This definition has been inserted because item 8 of the Table in Schedule A will set out a fee for each course to which the ELICOS Standards apply.
3. ESOS Agency: this definition provides that 'ESOS' agency has the same meaning as it has in the *Education Services for Overseas Students Act 2000* (ESOS Act). This definition has been added as items 6, 7 and 8 of the Table in Schedule A will make reference to TEQSA's role as an ESOS Agency.
4. Foundation Program: this definition provides that 'Foundation Program' means a course to which the instrument made under section 176C of the ESOS Act applies. This definition has been inserted because item 8 of the Table in Schedule A will set out a fee for each Foundation Program course.
5. Nested set of courses: this definition provides that a 'nested set of courses' is a set of courses consisting of one 'primary course of study' and one or more 'related courses of study' (Items 3 and 5 of the Schedule insert definitions of these terms). This definition has been inserted because the fees set out in items 11 - 13 and 16 - 17 of the Table in Schedule A provide that certain fees will only apply where an application is for the accreditation of a nested set of courses.
6. Primary course of study: this definition provides that a 'primary course of study' is a course of study from which all of the subjects or units that comprise a related course of study are taken. This definition has been inserted because the definition of nested set of courses, and items 11 - 13 and 16 - 17 of the Table in Schedule A, will refer to primary courses of study.
7. Prospective provider: this definition provides that a 'prospective provider' is a regulated entity which is not a registered higher education provider (Item 4 of the Schedule inserts a definition of 'regulated entity'). This definition has been inserted because the fees set out in items 10 and 11 of the Table in Schedule A will only apply where a regulated entity is not a registered higher education provider.
8. Regulated entity: this definition provides that 'regulated entity' has the same meaning as it has in the Act. This definition has been inserted because the definition of prospective provider makes reference to a regulated entity.
9. Related course of study: this definition provides that a 'related course of study' is a course of study that is comprised entirely of subjects or units taken from another course of study offered by the same registered higher education provider. The definition has been inserted because the definition of nested set of courses, and items 11 - 13 and 16 - 17 of the Table in Schedule A, will refer to related courses of study.

10. Teach out: this definition provides that, in relation to an application for renewal of accreditation, 'tech out' refers to a course in which students are no longer allowed to enrol or commence. This definition has been inserted because item 17 of the Table in Schedule A will set out fees that only apply to an application for renewal of accreditation where the course being renewed is one in which students are no longer allowed to enrol or commence.
11. Threshold Standards: this definition provides that 'Threshold Standards' has the same meaning as it has in the Act'. This definition has been inserted because the definition of core standards, and items 3 and 4 of the Table in Schedule A, will refer to the Threshold Standards.

Item 6 of the Schedule to the instrument removes the definition of teaching period as this term will no longer be referenced in the amended instrument.

Item 8 of the Schedule to the instrument repeals the existing Table in Schedule A and replaces it with a new table of fees.

### *Registration fees*

Item 1 of the table provides that the fee for a preliminary assessment of an application under section 19 of the Act is \$12,900. The fee set out in Item 1 is a combination of two charges set out in Appendix A to the CRIS, the amount for a 'preliminary assessment' (\$7,600) and the amount for 'financial assessment (preliminary)' (\$5,300). The amounts have been combined into a single fee as a 'financial assessment (preliminary)' is a component of the preliminary assessment described in section 19 of the Act and this activity is undertaken in relation to all applications made under section 19.

Item 2 of the table provides that the fee for substantive assessment of an application under section 20 of the Act is \$100,600. The fee set out in Item 2 is a combination of two charges set out in Appendix A to the CRIS, the amount for a 'substantive assessment' (\$65,800) and the amount for 'financial assessment (substantive)' (\$34,800). The amounts have been combined into a single fee as 'financial assessment (substantive)' is a component of the substantive assessment described in section 20 of the Act and this activity is undertaken in relation to all applications.

Item 3 of table provides the fees for an application to renew a provider's registration under section 35 of the Act in circumstances where that application is not combined with an application for self-accrediting authority under section 41 of the Act. Where the approved form for the application requires the provider to address provisions of the Threshold Standards other than Core Standards, the fee will be \$102,100. If the approved form for the application only requires the provider to address the Core Standards, the fee will be \$60,000.

Item 4 of the table provides the fees for an application to renew a provider's registration under section 35 of the Act where that application is combined with an application for self-accrediting authority under section 41 of the Act. Where the approved form for the application requires the provider to address provisions of the Threshold Standards other than Core Standards, the fee will be \$116,400. If the approved form for the application only requires the provider to address the Core Standards, the fee will be \$80,200.

Item 5 of the table provides that the fee of \$49,300 applies to applications for change of provider category made under section 38 of the Act.

Item 6 of the table provides a fee of \$22,200 for applications made to TEQSA as an ESOS Agency, under section 9 of the ESOS Act, for registration to provide a course(s) to overseas students under for \$22,200.

Item 7 of the table provides the fees for applications to TEQSA as an ESOS Agency for renewal of registration made under section 10D of the ESOS Act. If the provider has self-accrediting authority, the fee is \$12,200 and otherwise the fee is \$24,900.

Item 8 of the table provides the fees for applications made to TEQSA as an ESOS Agency, under section 10H of the ESOS Act, to add one or more courses at one or more additional locations to a provider's registration. For each location for which the provider is not registered at the time of the application, the fee is \$11,700 per location. For each course for which the provider is not registered at any location at the time of the application, the fees are \$4,300 per course to which the ELICOS Standards apply, \$4,400 per Foundation Program course and \$400 per course for all other courses.

For example, a provider would pay a single fee of \$11,700 for the registration of a new location if a provider made an application under section 10H of the ESOS Act to:

- add an additional location to the provider's registration; and
- provide three courses at that location that provider is already registered to offer at one of its existing locations.

As a further example, if a provider made an application under section 10H to:

- add two new locations to its registration;
- provide two ELICOS which the providers is not already registered to offer at any of its existing locations; and
- provide one Foundation Program at that location that the provider is already registered to offer at one of its existing locations,

the provider would pay a fee of \$11,700 for each new location, a fee of \$4,300 for each of the two courses to which the ELICOS Standards apply and no fee in relation to the Foundation Program course that it is already registered to provide at one of its existing locations.

### *Course accreditation fees*

Item 9 of the table provides the fees for applications to self-accredit one or more courses of study made under section 41 of the Act. For an application by a provider with no existing authority to self-accredit a course or group of courses of study, the fee is \$49,300. For an application by a provider which is authorised under the Act to self-accredit one or more courses of study the fee is \$38,800.

Item 10 of the table provides that the fee for a preliminary assessment of an application by a prospective provider for the accreditation of a course of study (other than an undergraduate certificate), under section 47 of the Act is \$5,200 per course.

Item 11 of the table provides the fees for a substantive assessment of an application by a prospective provider, for the accreditation of a course of study (other than an undergraduate certificate), under section 48 of the Act. Where an application is for the accreditation of a single course of study or multiple courses of study that do not form a nested set of courses, the fee is \$39,500 per course. Where an application is for the accreditation of a nested set of courses, the fee is \$39,500 for the primary course of study and \$35,700 for each related course of study.

Item 12 of the table provides the fees for the preliminary assessment of an application by a registered provider, for the accreditation of a course of study (other than an undergraduate certificate), under section 47 of the Act. Where an application is for the accreditation of a single course of study or multiple courses of study that do not form a nested set of courses, the fee is \$4,600 per course. Where an application is for the accreditation of a nested set of courses, the fee is \$4,600 for the primary course of study and \$1,200 for each related course of study. Item 12 notes that where a provider has an equivalent full-time student load of 5000 or less, the table set out in section 2 of Schedule B, setting out discounts based on student loads, applies to these fees.

Item 13 of the table provides the fees for the substantive assessment of an application by a registered provider, for the accreditation of a course of study (other than an undergraduate certificate), under section 48 of the Act. Where an application is for the accreditation of a single course of study or multiple courses of study that do not form a nested set of courses, the fee is \$17,000 per course. Where an application is for the accreditation of a nested set of courses, the fee is \$17,000 for the primary course of study and \$4,200 for each related course of study.

Item 14 of the table provides that the fee for the preliminary assessment of an application for the accreditation of an undergraduate certificate under section 47 of the Act is \$300 per course. This is the fee the CRIS sets out for a preliminary assessment of an application for the accreditation of a 'short course'. For the purposes of the amended Fee Instrument, the fee will apply to in relation to the preliminary assessment of an application for the accreditation of an 'undergraduate certificate' to provide clarity about exactly when these fees apply.

Item 15 provides that the fee for the substantive assessment of an application for the accreditation of an undergraduate certificate under section 48 of the Act is \$1,100 per course. This fee is a combination of the fees for substantive assessment set out in Appendix A to the CRIS for the 'first' short course (first 'short course' the provider seeks to have accredited, \$800) and a 'decision' relating to that substantive assessment (\$300). The fees will be combined in the amended Fee Instrument because any application made for accreditation ordinarily requires a decision.

Item 16 of the table provides the fees for applications made under section 55 of the Act for renewal of accreditation for a course of study, other than applications relating to an undergraduate certificate or applications made based on teach out. Where an application is for renewal of the accreditation of a single course of study or multiple courses of study that do not form a nested set of courses, the fee is \$21,700 per

course. Where an application is for the accreditation of a nested set of courses, the fee is \$21,700 for the primary course of study and \$5,200 for each related course of study..

Item 17 of the table provides the fees for applications made under section 55 of the Act for renewal of accreditation for teach out courses of study, other than an undergraduate certificates. Where an application is for accreditation of a single course of study or multiple courses of study that do not form a nested set of courses, the fee is \$2,800 per course. Where an application is for accreditation of a nested set of courses the fee is \$2,800 for the primary course of study and \$800 for each related course of study.

Each of items 10 – 13, 16 and 17 of the table includes a note providing that, where a provider has an equivalent full-time student load of 5000 or less, the table set out in section 2 of Schedule B, setting out discounts based on student loads, applies to the fees set out in those items.

Item 18 of the table provides that the fee for an application made under section 55 of the Act for renewal of accreditation for an undergraduate certificate is \$1,100 per course.

#### *Conditions fees*

Item 19 of the table provides the fees for applications made under subsections 32(3) or 53(3) of the Act to vary or revoke a condition of registration or accreditation. For an application made under subsection 32(3), in relation to a condition imposed on a provider's registration, the fee is \$8,300 per condition. For an application made under subsection 53(3), in relation to a condition imposed on the accreditation of a course, the fee is \$5,700 per condition.

#### *Review of decisions fees*

Item 20 of the table provides that the fee for an application, made under section 184 of the Act, for internal review of a decision made by a delegate of TEQSA, is \$1,000.

#### *Schedule B amendments*

Item 9 of the Schedule to the Instrument inserts a new Part 1 of Schedule B which sets out an application provision relating to fees for substantive assessments. New section 1 in Part 1 will provide that, subject to subsection 1(2), where a regulated entity makes an application under section 18 of the Act for registration, or an application under section 46 for the accreditation of a course, prior to 1 January 2023, the relevant fee under sections 20 and 48 respectively for the substantive assessments of those application will be the fee payable under the Fee Instrument as it applied before the amendments set out in this instrument take effect.

Subsection 1(2) applies in place of subsection 1(1) where an application made under section 46 of the Act prior to 1 January 2023 relates to the accreditation of an undergraduate certificate. Subsection 1(2) provides that the relevant fee under section 48 of the Act for the substantive assessment of such applications will be the fee that will be set out in item 15 of the table in Schedule A after the Fee Instrument is amended by this instrument.

New section 1 of Schedule B has been inserted into the Fee Instrument to ensure that where a provider submits an application prior to 1 January 2023, and that application requires both a preliminary and substantive assessment by TEQSA, the fees the provider pays for each assessment those fees that applied at the time the application was made. The substantive assessment of an application made under sections 18 or 46 occurs quite some time after the application is initially submitted to TEQSA. Where subsection 1(1) of Schedule B applies to the application, the provider will pay the fee that applied at the time when the application was submitted.

Where subsection 1(2) applies to an application concerning an undergraduate certificate, the provider will pay the fee that will apply to substantive assessments after the Fee Instrument is amended by this instrument. This is because the fee for a substantive assessment set out in item 15 of the table in Schedule A will be lower than the fee that would apply to a substantive assessment of an application to accredit an undergraduate certificate before the Fee Instrument is amended by this instrument.

Item 9 of the Schedule to the Instrument also inserts Part 2 of Schedule B relating to course accreditation discounts. New section 2 in Part 2 provides that where, on or after 1 January 2023, a provider makes an application to have a course of study accredited or have the accreditation of a course renewed, and the provider's equivalent full-time student load is less than 5000 students, the relevant discount set out in the table below subsection 2(1) will apply to the relevant fees that will be set out in Schedule A.

The table set out below subsection (2)(1) provides that where a provider has an equivalent full-time study load of 5000 students or less, and the provider makes an application to which the fees set out in items 10, 11, 12, 13, 16 or 17 of the table Schedule A will apply, those fees will be discounted by a percentage based on the provider's equivalent full-time student load.

For example, if a provider with an equivalent full-time student load of 480 students makes an application to which the fee set out in item 10 of the table in Schedule A will apply, the \$5,200 per course fee set out in item 10 will be discounted by 70% so that the fee is instead \$1,560 per course.

The discounts set out in the table reflect the commitment set out in the CRIS providing for discounts on course accreditation and re-accreditation of up to 70% for providers with an equivalent full-time student load of between 0 and 500.

New paragraph 2(2)(a) in Part 2 of Schedule defines 'full-time study load' for the purposes of subsection 2(1). The meaning of this term will vary depending upon whether section 169-28 of the *Higher Education Support Act 2003* applies to the provider in respect of the course the application for accreditation or the renewal of accreditation relates to.

New paragraph 2(2)(b) explains that the term 'provider's equivalent full-time student load' means the total number of students enrolled, on an equivalent full-time basis, in each accredited course provided by the relevant higher education provider in the year that is 2 years before the year in which the charge is being calculated. The explanation refers to data from 2 years prior to the year in which the fee will apply as this will be the



most recent academic year for which data is available at the time when the application for accreditation or renewal of accreditation is made.

New subsection 2(3) provides how the number of students enrolled on a full-time equivalent basis must be calculated for the purposes of subsection 2(1). The subsection explains that each student that has a full-time study load for the course and the year should be counted as one student and that any student with less or more than a full-time study load should be counted as a fraction of a student. The example set out under subsection 2(3) explains that if a part-time student is enrolled in 4 units of study as part of that course where a full-time student would be enrolled in 8 units, that student is counted as half of 1 student. If another student is enrolled in 10 units of study as part of that course, that student is counted as 1 and a quarter of 1 student.

Item 9 of the Schedule to the Instrument inserts new Part 3 of Schedule B, entitled 'Waiver and refund of fees'. New section 3 in Part 3 provides TEQSA with the ability to waive part of the fees as set out in items 15 and 18 of the Table found in Schedule A, where the application for the accreditation or renewal of accreditation is withdrawn before a decision regarding the application is made. If TEQSA chooses to exercise the discretion provided in new subsection 3(1) and to waive part of a fee, TEQSA must waive \$300 from the fee that is otherwise payable under items 15 or 18 of the table in Schedule A.

Item 10 of the Schedule to the Instrument repeals the title "Part 1 – Waiver and refund of fees".

Item 11 of the Schedule to the Instrument repeals section 1 of the existing Schedule B and replaces the section with a new section 4. The new section 4 sets out the general circumstances in which TEQSA can waive all or part of the fees payable in Schedule A. New paragraphs 4(a) and (b) will replicate existing paragraphs 1(b) and (c) respectively of the existing Schedule B.

Item 12 of the Schedule to the Instrument repeals sections 2 and 3 of Schedule B and replaces them with new sections 5 and 6 respectively. New subsection 5(1) largely reflects existing paragraphs 2(a), (b) and (c) of the existing Schedule B but has been altered to reflect the new table of fees that will be set out in Schedule A. However, subsection 5(2) is an addition that will require TEQSA to take into account the objective of recovering the costs associated with TEQSA's regulatory effort when making a decision under subsection 5(1) regarding whether to exercise its discretion to waive fees.

The new section 6 largely reflects existing section 3 of the existing Schedule B and provides that TEQSA may refund all or part of particular fees set out in the table in Schedule A where, in TEQSA's opinion, special or unusual circumstances exist that cause the fee to be unreasonable or inequitable. New subsection 6(1) reflects existing subsection 3(1) but has been updated to reflect the new table of fees that will be set out in Schedule A and new subsection 6(3) reflects existing subsection 3(2). New subsection 6(2) has been added so that TEQSA is required to take into account the objective of recovering the costs associated with TEQSA's regulatory effort when making a decision under subsection 6(1) on whether to exercise its discretion to refund fees.

Item 13 of the Schedule to the Instrument repeals section 4 of the existing Schedule B which was added to Schedule B as a temporary measure to deal with the COVID-19 pandemic.

Item 14 of the Schedule to the Instrument repeals the heading 'Part 2 – Merits Review' and substitutes it with '*Part 4 – Merits Review*'.

Item 15 of the Schedule to the Instrument repeals existing section 5 of the existing Schedule B and substitutes it with a new section 7. New section 7 largely reflects existing section 5 but has been updated to reflect changes to the numbering of previous sections and the fact that there will be additional reviewable decisions. Section 7 provides that, the following decisions will be reviewable decisions:

- 3 (Waiver of fees - undergraduate certificate decision not made prior to withdrawal);
- 4 (Waiver of fees – general);
- 5 (Waiver of fees – special or unusual circumstances); and
- 6 (Refund of fees – special or unusual circumstances).

Item 16 of the Schedule to the Instrument repeals and replaces the heading to existing section 6 of the existing Schedule B, renumbering the section to make it section 8.

Item 17 of the Schedule to the Instrument repeals existing subsection 6(7) and substitutes it with a new subsection 6(7). The new subsection has been inserted to update the reference in the subsection from paragraph 6(4)(a) to paragraph 8(4)(a). This reflects the fact that Item 16 of the Schedule to the Instrument will renumber existing section 6 to make it section 8.

Item 18 of the Schedule to the Instrument repeals existing section 7 of the existing Schedule B and substitutes it with a new section 9. New section 9 largely reflects existing section 7 but paragraph 9(b) has been updated to reference decisions made under subsection 8(4) rather than subsection 6(4), reflecting the change made by Item 16 of the Schedule to the Instrument.

## Statement of Compatibility with Human Rights

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

### ***Tertiary Education Quality and Standards Agency Determination of Fees (Amendment) 2022***

The Tertiary Education Quality and Standards Agency Determination of Fees (Amendment) 2022 (Amending 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 Amending Instrument is to amend the Tertiary Education Quality and Standards Agency Determination of Fees No. 1 of 2020 (Fee Instrument), which determines the fees TEQSA may charge for things done in the performance of its functions.

These amendments are necessary to ensure the Tertiary Education Quality and Standards Agency Determination of Fees No. 1 of 2020 reflects a decision by the Australian Government in the 2018-2019 Budget to implement revised cost recovery arrangements for the Tertiary Education Quality and Standards Agency (TEQSA). Historically, TEQSA has recovered approximately 15% of its costs via the fees set out in the Fee Instrument but, from 1 January 2023, TEQSA will be moving toward 90% cost recovery model.

The new cost recovery model has necessitated the implementation of a new registered higher education provider charge, imposed by the Tertiary Education Quality and Standards Agency (Charges) Act 2021, but will also require amendments to the current Fee Instrument. The amendments made by the Amending Instrument to the current Fee Instrument reflect the updated fees set out in the Cost Recovery Implementation Statement published by TEQSA in October 2022.

#### **Human rights implications**

##### Right to education

The Amending Instrument engages the right to education which is set out in Article 13 of the *International Covenant on Economic, Social and Cultural Rights*. The right to education recognises the important personal, societal, economic and intellectual benefits of education, and provides that secondary education in its different forms, including higher education, shall be made generally available and accessible to all by every appropriate means.

Payment of the fees in Fee Instrument by registered higher education providers contributes to the Australian Government's consolidated revenue fund. The contributions to this fund will ensure the Australian Government can fund TEQSA to carry out its regulatory and quality assurance roles in the higher education sector.

There are more than 1.6 million students currently studying higher education in Australia and, prior to the pandemic, the annual economic benefit to Australia from higher education as an export was estimated to be over \$37 billion. The Amending Instrument engages and promotes the right to education because it supports TEQSA's work, including its ability to register providers and accrediting courses of study, which in turn promotes the objective of making quality education available and accessible to students both in Australia and who come from overseas to study.

The amending instrument is compatible with the right to education.

**Conclusion**

This amending instrument is compatible with human rights because it promotes the protection of human rights.

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Professor Peter Coaldrake  
Chief Commissioner

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Professor Joan Cooper  
Commissioner

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Adrienne Nieuwenhuis  
Commissioner

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Stephen Somogyi  
Commissioner

Tertiary Education Quality and Standards Agency