

ED301\*

## Higher Education Act 2004

**Higher Education Amendment Regulations 2010**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *Higher Education Amendment Regulations 2010*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

**3. Regulations amended**

These regulations amend the *Higher Education Regulations 2005*.

**4. Regulation 2 amended**

In regulation 2(1) delete the definition of *higher education advisory committee* and insert:

*higher education advisory committee*, in relation to a request under section 7 of the Act or an application under section 9, 13 or 17 of the Act, means the higher education advisory committee appointed to consider the request or application;

**5. Regulation 3 replaced**

Delete regulation 3 and insert:

**3. Prescribed information relating to request to appoint a higher education advisory committee**

For the purposes of section 7(2)(b) of the Act, the prescribed information is the information specified in Schedule 1.

**6. Regulations 5A and 5B inserted**

After regulation 4 insert:

**5A. Prescribed information for applications for self-accrediting authorisation**

For the purposes of section 13A(2)(b) of the Act, the prescribed information is the information specified in Schedule 1.

**5B. Costs and expenses of considering request under section 7 or application under section 9 or 13A of the Act**

(1) An arrangement entered into under section 28(1) of the Act by the Minister with a person (the *applicant*) must provide for —

- (a) the costs and expenses of the preparation of a report by a person approved by the Minister on —
  - (i) the financial and other resources available to the applicant; and
  - (ii) whether or not those resources are adequate to enable the applicant to comply with the requirements of the Act and meet the criteria set out in any National Protocol applicable to the applicant;

and

- (b) the costs and expenses relating to preparing and executing the agreement; and
- (c) in the case of an appointment of a higher education advisory committee, the costs and expenses incurred by the Minister in relation to —
  - (i) the remuneration, allowances and expenses of members of the committee; and
  - (ii) selecting and appointing members of the committee; and
  - (iii) providing services to the committee; and
  - (iv) the preparation of interim or other reports of the committee;

and

- (d) the times or stages in which, and the manner in which, payments of costs, expenses remuneration and allowances are to be made by the applicant to the Minister.

- (2) If there is a dispute between the applicant and the Minister about the costs and expenses that are to be paid by the applicant under an arrangement entered into under section 28(1) of the Act, that dispute is to be determined by arbitration under the *Commercial Arbitration Act 1985*.

**7. Regulation 9A inserted**

After regulation 8 insert:

**9A. Fee for request to review report of higher education advisory committee**

For the purposes of section 21A(3)(c) of the Act, the fee to accompany a request to undertake a review of a report of a higher education advisory committee is to be calculated by multiplying —

- (a) the rate per hour agreed to by the applicant and the Minister; and
- (b) an estimate of the number of hours that will be required to undertake the review agreed to by the applicant and the Minister.

**8. Regulation 9 amended**

In regulation 9(1)(b) delete “section 9, 13 or 17 of the Act.” and insert:

section 9, 13A, 13 or 17 of the Act.

**9. Schedule 1 amended**

- (1) In Schedule 1 delete:

**Schedule 1 — Information to be included in applications for a section 10 determination or a provider’s authorisation**

[r. 4, 6]

and insert:

**Schedule 1 — Information prescribed under section 7, 9, 13A or 13**

[r. 3, 4, 5A, 6]

(2) In Schedule 1 after clause 22 insert:

23A. Any other information in the possession or control of the applicant that is likely to be relevant to a higher education advisory committee appointed to make a report under section 7(1) of the Act.

(3) In Schedule 1 clause 23 delete “section 10(1)” and insert:

section 10(1), 13B(1)

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.