

Western Australia

Higher Education Amendment Act 2009

As at 03 Dec 2009

No. 40 of 2009

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Higher Education Amendment Act 2009

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Western Australia

Higher Education Amendment Act 2009

No. 40 of 2009

An Act to amend the *Higher Education Act 2004*.

[Assented to 3 December 2009]

The Parliament of Western Australia enacts as follows:

1. Short title

This is the *Higher Education Amendment Act 2009*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Act amended

This Act amends the *Higher Education Act 2004*.

4. Section 3 amended

- (1) In section 3 delete the definitions of:

higher education award

National Protocols

recognised Australian university

section 10 determination

- (2) In section 3 insert in alphabetical order:

Australian Qualifications Framework means the framework of educational qualification stated in the implementation handbook for that framework published by the Australian Qualifications Framework Advisory Board as in force from time to time;

Australian university college means an education institution, or part of an education institution, that —

- (a) was originally established in Australia; and
- (b) is established or recognised as a university college by or under a written law of this State,

the Commonwealth, another State, the Australian Capital Territory or the Northern Territory;

higher education award means a qualification referred to in the Australian Qualifications Framework as a qualification that is issued in the higher education sector;

National Protocols means —

- (a) the National Protocols for Higher Education Approval Processes approved by the Ministerial Council on Education, Employment, Training and Youth Affairs on 31 March 2000, as amended from time to time; or
- (b) if the regulations declare a document to be in substitution for that protocol — a reference to the substitute document, as amended from time to time;

payment agreement means an agreement referred to in section 28;

section 10 determination, in relation to an education institution, means a determination made under section 10;

self-accrediting authorisation means an authorisation granted for a non-university institution under section 13B.

- (3) In section 3 in the definition of **Australian university** delete “institution” and insert:

institution, or part of an education institution,

s. 5

(4) In section 3 in the definition of *non-university institution*:

(a) in paragraph (a) delete “a recognised” and insert:

an

(b) after paragraph (a) insert:

(ba) an Australian university college; or

(5) In section 3 in the definition of *provider’s authorisation* delete “authorisation given to” and insert:

an authorisation granted for

5. Part 2 Division 1 heading inserted

Before section 6 insert:

**Division 1 — Protection of standards for
higher education**

6. Section 6 amended

(1) In section 6(1):

(a) in paragraph (a) delete “a recognised” and insert:

an

- (b) after “Penalty:” insert:
 - a fine of

- (2) In section 6(2):
 - (a) in paragraph (b) delete “organisation.” and insert:
 - organisation; or

 - (b) after paragraph (b) insert:
 - (c) an Australian university college or an agent of such an institution that represents that the institution is a university college or part of a university college —
 - (i) by use of a title that includes the words “university college”; or
 - (ii) in any other way.

- (3) In section 6(3):
 - (a) in paragraph (a) delete “a recognised” and insert:
 - an

 - (b) after paragraph (a) insert:
 - (ba) an Australian university college; or

 - (c) in paragraph (d) after “(a),” insert:
 - (ba),

s. 7

(d) after each of paragraphs (a) and (b) insert:

or

(e) after “Penalty:” insert:

a fine of

(4) Delete section 6(4) and insert:

(4) A person must not represent that a course of study leads to, will partially satisfy the requirements for, or would entitle a person who satisfies the course requirements to, the conferral of a higher education award, unless —

(a) the course provider is —

- (i) an Australian university; or
- (ii) an Australian university college; or
- (iii) a recognised overseas university;

or

(b) the course provider is an authorised non-university institution and the course is accredited.

Penalty: a fine of \$20 000.

7. Sections 7A and 7B inserted

After section 6 insert:

7A. Representations about authorisation to accredit higher education courses

An education institution or an agent of an education institution must not represent that the institution is

authorised to accredit a higher education course unless a self-accrediting authorisation is in force for the institution authorising it to accredit such a course.

Penalty: a fine of \$20 000.

7B. Representations about admissions into higher education courses

A person must not represent that successful completion of a course of study would satisfy, or partially satisfy, the academic prerequisites for admission into a higher education course unless the higher education course provider has authorised that representation.

Penalty: a fine of \$20 000.

8. Part 2 Division 2 heading and Part 2 Division 2 Subdivision 1 heading inserted

Before section 7 insert:

Division 2 — Universities

Subdivision 1 — Report about criteria for establishing Australian university

9. Section 7 replaced

Delete section 7 and insert:

7. Report about criteria for establishing Australian university

- (1) An education institution may request the Minister to appoint a higher education advisory committee to consider and report to the Minister on —
 - (a) whether the committee considers that the institution meets the criteria set out in the

National Protocols for establishing an Australian university; and

- (b) any other matter relevant to a decision on whether the institution should be established as an Australian university.
- (2) A request must —
 - (a) be accompanied by a payment agreement; and
 - (b) include the prescribed information.
 - (3) The Minister may in writing, require the institution making the request to provide further information in relation to the request.
 - (4) The requirement is to specify a reasonable time within which the institution must comply with the requirement.
 - (5) The Minister may refuse to appoint a higher education advisory committee, or may discharge a committee that has been appointed, if the institution does not comply with a requirement under subsection (3) within the time specified in the requirement.
 - (6) The Minister must, as soon as practicable after receiving the report of a higher education advisory committee regarding an education institution, give a copy of the report to the institution.

10. Part 2 Division 2 Subdivision 2 heading inserted

After section 7 insert:

Subdivision 2 — Recognition of overseas universities

11. Section 8 amended

In section 8(a) after “is” insert:

an overseas university or

12. Section 9 amended

(1) In section 9(1) after “institution” insert:

that is an overseas university, or part of an overseas university,

(2) Delete section 9(2)(a) and insert:

(a) be accompanied by a payment agreement; and

(3) After section 9(2) insert:

(3) The Minister may in writing, require the applicant to provide further information in relation to the application.

(4) The requirement is to specify a reasonable time within which the applicant must comply with the requirement.

(5) The Minister may refuse the application if the applicant does not comply with a requirement under subsection (3) within the time specified in the requirement.

13. Section 10 replaced

Delete section 10 and insert:

10. Recognition of overseas universities

- (1) The Minister may determine that an education institution meets the criteria for recognition as an overseas university if satisfied that the institution meets the criteria set out in the National Protocols for overseas universities seeking to operate in Australia.
- (2) Before making a determination, the Minister must have regard to the report of the higher education committee appointed to consider the matter.
- (3) When making a determination, the Minister may also have regard to the following —
 - (a) any national policies and agreements about the governance and other characteristics of overseas universities made by the Minister with other education Ministers;
 - (b) any other relevant information.
- (4) The Minister may make a determination subject to any conditions relevant to —
 - (a) ensuring that the education institution meets or continues to meet the criteria referred to in section 10(1); or
 - (b) protecting the interests of the students enrolled in the higher education courses provided by the institution.

- (5) If the Minister makes a determination under this section, the Minister must arrange for a copy of the determination to be laid before each House of Parliament.

14. Section 11A inserted

After section 10 insert:

11A. Further conditions on section 10 determination

- (1) The Minister may, at any time after making a section 10 determination, make the determination subject to any conditions relevant to —
 - (a) ensuring that the education institution meets or continues to meet the criteria referred to in section 10(1); or
 - (b) protecting the interests of the students enrolled in the higher education courses provided by the institution.
- (2) Before making a section 10 determination subject to conditions under subsection (1), the Minister must —
 - (a) give the institution an opportunity to make representations on the matter; and
 - (b) consider any representations made; and
 - (c) have regard to the interests of the students enrolled in the higher education courses provided by the institution.

15. Section 11 amended

(1) Delete section 11(1) and insert:

(1) The Minister may suspend or revoke a section 10 determination if —

- (a) the education institution does not comply with a condition to which the determination has been made subject under section 10(4) or 11A(1); or
- (b) the Minister is no longer satisfied that the education institution meets the criteria referred to in section 10(1).

(2) In section 11(2)(c) delete “higher education courses at” and insert:

the higher education courses provided by

(3) After section 11(3) insert:

(4) If the Minister revokes a section 10 determination, the Minister must arrange for a copy of the revocation to be laid before each House of Parliament.

16. Part 2 Division 3 heading and Part 2 Division 3 Subdivision 1 heading inserted

After section 11 insert:

Division 3 — Non-university institutions

Subdivision 1 — Authorised non-university institutions

17. Section 12 replaced

Delete section 12 and insert:

12. Authorised non-university institutions

A non-university institution is authorised to provide a higher education course —

(a) if —

- (i) a self-accrediting authorisation is in force for the institution; and
- (ii) the course is accredited by the institution in accordance with that authorisation;

or

(b) if —

- (i) a provider's authorisation is in force for the institution; and
- (ii) ministerial accreditation is in force for the course.

18. Part 2 Division 3 Subdivision 2 inserted

After section 12 insert:

Subdivision 2 — Self-accrediting authorisation of non-university institutions

13A. Applications for grant of self-accrediting authorisation

- (1) A non-university institution may apply to the Minister for the grant of a self-accrediting authorisation.
- (2) An application request must —
 - (a) be accompanied by a payment agreement; and

- (b) include the prescribed information.
- (3) The Minister may in writing, require the applicant to provide further information in relation to the application.
- (4) The requirement is to specify a reasonable time within which the applicant must comply with the requirement.
- (5) The Minister may refuse the application if the applicant does not comply with a requirement under subsection (3) within the time specified in the requirement.

13B. Self-accrediting authorisation of non-university institutions

- (1) The Minister may grant a self-accrediting authorisation for a non-university institution if satisfied that —
 - (a) the governance, financial resources, facilities, staffing and student services of the institution are or will be appropriate to the provision of higher education courses; and
 - (b) the institution has structures and processes to set standards for higher education courses that are at least equal or equivalent to the Australian standards appropriate to courses of that type; and
 - (c) the institution meets any other criteria set out in the National Protocols in relation to the standards and qualities required for approval of an institution to self-accredit its courses.
- (2) When deciding whether to grant a self-accrediting authorisation, the Minister must have regard to the report of the higher education advisory committee appointed to consider the matter.

- (3) When deciding whether to grant a self-accrediting authorisation, the Minister may also have regard to the following —
 - (a) the governance, financial resources, facilities, staffing and student services of comparable institutions;
 - (b) any other relevant information.
- (4) A self-accrediting authorisation may authorise the institution to do one or more of the following —
 - (a) accredit higher education courses leading to a higher education award within a field or a range of fields specified in the authorisation;
 - (b) accredit higher education courses leading to a higher education award of a type or types specified in the authorisation.
- (5) The Minister may grant a self-accrediting authorisation subject to any conditions relevant to —
 - (a) ensuring that the non-university institution meets or continues to meet the criteria referred to in section 13B(1); or
 - (b) protecting the interests of the students enrolled in the higher education courses provided by the institution.

13C. Further conditions on self-accrediting authorisation

- (1) The Minister may, at any time after a self-accrediting authorisation has been granted, make the authorisation subject to any conditions relevant to —
 - (a) ensuring that the non-university institution meets or continues to meet the criteria referred to in section 13B(1); or

- (b) protecting the interests of the students enrolled in the higher education courses provided by the institution.
- (2) Before making a self-accrediting authorisation subject to conditions under subsection (1), the Minister must —
 - (a) give the non-university institution an opportunity to make representations on the matter; and
 - (b) consider any representations made; and
 - (c) have regard to the interests of the students enrolled in the higher education courses provided by the institution.

13D. Suspension or revocation of self-accrediting authorisation

- (1) The Minister may suspend or revoke a self-accrediting authorisation if —
 - (a) the non-university institution does not comply with a condition to which the authorisation has been made subject under section 13B(5) or 13C(1); or
 - (b) the Minister is no longer satisfied that the non-university institution meets the criteria referred to in section 13B(1).
- (2) The suspension or revocation of a self-accrediting authorisation may be in respect of one or more of the higher education courses that the non-university institution is authorised to accredit.

-
- (3) Before suspending or revoking a self-accrediting authorisation, the Minister must —
 - (a) give the non-university institution an opportunity to make representations on the matter; and
 - (b) consider any representations made; and
 - (c) have regard to the interests of the students enrolled in the higher education courses provided by the institution.
 - (4) A suspension or revocation under subsection (1) is to be given to the non-university institution in writing signed by the Minister and is to —
 - (a) state the grounds relied on in making the decision; and
 - (b) where relevant, specify the higher education courses to which it applies.
 - (5) A suspension or revocation has effect to the extent specified in the written notice.

19. Part 2 Division 3 Subdivision 3 heading inserted

Before section 13 insert:

**Subdivision 3 — Provider’s authorisation of
non-university institutions**

20. Section 13 amended

- (1) In section 13(1) after “for” insert:

the grant or renewal of

s. 21

- (2) After section 13(2) insert:
 - (3) The Minister may in writing, require the applicant to provide further information in relation to the application.
 - (4) The requirement is to specify a reasonable time within which the applicant must comply with the requirement.
 - (5) The Minister may refuse the application if the applicant does not comply with a requirement under subsection (3) within the time specified in the requirement.

21. Section 14 amended

- (1) In section 14(1):
 - (a) delete “authorise a non-university institution to provide a higher education course” and insert:

grant or renew a provider’s authorisation for a non-university institution
 - (b) in paragraph (a) delete “the course; and” and insert:

higher education courses; and
- (2) In section 14(2) and (3) delete “give” and insert:

grant or renew

- (3) Delete section 14(4) and insert:
- (4) The Minister may grant or renew a provider's authorisation subject to any conditions relevant to —
 - (a) ensuring that the non-university institution meets or continues to meet the criteria referred to in section 14(1); or
 - (b) protecting the interests of the students enrolled in the higher education courses provided by the institution.

22. Sections 15A and 15B inserted

After section 14 insert:

15A. Duration of provider's authorisation

- (1) Unless otherwise provided under this Act, a provider's authorisation continues in force —
 - (a) for 5 years from the day on which the authorisation is granted; or
 - (b) if an earlier day is specified in the authorisation, until that day.
- (2) The Minister may extend a provider's authorisation, in writing given to the non-university institution, for a period of up to 6 months after the day on which it would otherwise have ceased to be in force if —
 - (a) an application for the renewal of the authorisation was made —
 - (i) 6 months or more before that day; or

(ii) less than 6 months before that day, if that day is less than 6 months after the commencement of the *Higher Education Amendment Act 2009* section 22;

and

(b) the Minister has not made a final decision on that application before that day.

15B. Further conditions on provider's authorisation

- (1) The Minister may, at any time after a provider's authorisation has been granted, make the authorisation subject to any conditions relevant to —
 - (a) ensuring that the non-university institution meets or continues to meet the criteria referred to in section 14(1); or
 - (b) protecting the interests of the students enrolled in the higher education courses provided by the institution.
- (2) Before making a provider's authorisation subject to conditions under subsection (1), the Minister must —
 - (a) give the non-university institution an opportunity to make representations on the matter; and
 - (b) consider any representations made; and
 - (c) have regard to the interests of the students enrolled in the higher education courses provided by the institution.

23. Section 15 amended

(1) Delete section 15(1) and insert:

- (1) The Minister may suspend or revoke a provider's authorisation if —
- (a) the non-university institution does not comply with a condition to which the authorisation has been made subject under section 14(4) or 15B(1); or
 - (b) the Minister is no longer satisfied that the non-university institution meets the criteria referred to in section 14(1).

(2) In section 15(2)(c) before “courses” insert:

higher education

24. Part 2 Division 3 Subdivision 4 heading inserted

Before section 16 insert:

Subdivision 4 — Accredited higher education courses

25. Section 16 replaced

Delete section 16 and insert:

16. Accredited higher education courses

A higher education course provided by a non-university institution is accredited for the purposes of this Act if —

- (a) a self-accrediting authorisation is in force for the institution and the course is accredited by

the institution in accordance with that authorisation; or

- (b) ministerial accreditation is in force for the course; or
- (c) the course is accredited by or under a written law of the Commonwealth, another State, the Australian Capital Territory or the Northern Territory.

26. Part 2 Division 3 Subdivision 5 heading inserted

After section 16 insert:

Subdivision 5 — Ministerial accreditation of higher education courses

27. Section 17A inserted

Before section 17 insert:

17A. Application of this Subdivision

This Subdivision applies to a course provider that is a non-university institution.

28. Section 17 amended

- (1) In section 17(1) after “accreditation” insert:

or renewal of accreditation

- (2) After section 17(2) insert:
 - (3) The Minister may in writing, require the applicant to provide further information in relation to the application.
 - (4) The requirement is to specify a reasonable time within which the applicant must comply with the requirement.
 - (5) The Minister may refuse the application if the applicant does not comply with a requirement under subsection (3) within the time specified in the requirement.

29. Section 18 amended

- (1) In section 18(1) and (2) delete “accredit” and insert:

accredit, or renew the accreditation of,
- (2) In section 18(3):
 - (a) delete “accredit” and insert:

accredit, or renew the accreditation of,
 - (b) in paragraph (a) delete “recognised” (first occurrence).
- (3) Delete section 18(4), (5) and (6).
- (4) Delete section 18(7) and insert:
 - (7) The Minister may make the accreditation of a higher education course subject to any conditions relevant to —

- (a) ensuring the course meets or continues to meet the criteria referred to in section 18(1); or
- (b) protecting the interests of the students enrolled in the course.

30. Sections 19A and 19B inserted

After section 18 insert:

19A. Duration of accreditation

- (1) Unless otherwise provided under this Act, ministerial accreditation of a higher education course continues in force until —
 - (a) the day that is 5 years after the day on which the course is registered under section 23(3); or
 - (b) if an earlier day is specified in the accreditation, that day.
- (2) The Minister may extend accreditation of a higher education course, in writing given to the course provider, for a period of up to 6 months after the day on which it would otherwise have ceased to be in force if —
 - (a) an application for the renewal of the accreditation was made —
 - (i) 6 months or more before that day; or
 - (ii) less than 6 months before that day, if that day is less than 6 months after the commencement of the *Higher Education Amendment Act 2009* section 30;

and

- (b) the Minister has not made a final decision on that application before that day.

19B. Further conditions on accreditation

- (1) The Minister may, at any time after accrediting a higher education course, make the accreditation subject to any conditions relevant to —
 - (a) ensuring the course meets or continues to meet the criteria referred to in section 18(1); or
 - (b) protecting the interests of the students enrolled in the course.
- (2) Before making accreditation of a higher education course subject to conditions under subsection (1), the Minister must —
 - (a) give the course provider an opportunity to make representations on the matter; and
 - (b) consider any representations made; and
 - (c) have regard to the interests of the students enrolled in the course.

31. Section 19 amended

- (1) Delete section 19(1).
- (2) Delete section 19(2) and insert:
 - (2) The Minister may suspend or revoke the accreditation of a higher education course if —
 - (a) the course provider does not comply with a condition to which the accreditation is subject under section 18(7) or 19B(1); or
 - (b) the Minister is no longer satisfied that the course meets the criteria referred to in section 18(1).

- (3) In section 19(3) delete “the ministerial accreditation,” and insert:

accreditation of a higher education course,

Note: The heading to amended section 19 is to read:

Suspension or revocation of ministerial accreditation

32. Part 2 Division 4 heading inserted

After section 19 insert:

Division 4 — Higher education advisory committees

33. Section 20 amended

- (1) Delete section 20(1) and insert:

(1) The Minister must appoint a person who is or persons who are suitably qualified and experienced to constitute a higher education advisory committee to consider and report to the Minister —

- (a) on the receipt of a request made under section 7(1);
- (b) on an application made under section 9, 13A, 13 or 17.

- (2) After section 20(1) insert:

(2A) Before appointing a person or persons to constitute a higher education advisory committee under

subsection (1) in respect of a particular request or application, the Minister must —

- (a) provide to the person making the request or application an opportunity to comment on the composition and membership of the committee; and
- (b) take into account the comments (if any) provided to the Minister by the person making the request or application.

34. Section 21A inserted

After section 20 insert:

21A. Report of higher education advisory committee to be provided to applicant

- (1) The Minister must, as soon as is practicable after receiving the report on an application referred to in section 20(1)(b) (the *report*), give a copy of the report to the applicant.
- (2) The applicant may request the Minister to undertake a review of the report.
- (3) A request to undertake a review of a report must —
 - (a) be made within 30 days after the receipt by the applicant of a copy of the report; and
 - (b) set out the grounds on which the applicant is seeking a review of the report; and
 - (c) be accompanied by the fee prescribed by, or calculated under, the regulations.
- (4) On receipt of a request to undertake a review of a report the Minister may refer the request to any

suitably qualified person or persons to consider and report to the Minister on the request.

- (5) The Minister must not make a decision on an application referred to in section 20(1)(b) until —
- (a) the applicant advises the Minister in writing that the applicant accepts the report; or
 - (b) 31 days have elapsed since the date on which the applicant is given a copy of the report and the applicant has not requested a review of the report; or
 - (c) the applicant has requested a review of the report and that review has been completed.

35. Part 3A heading inserted

After section 21 insert:

Part 3A — Reviews and investigation

36. Section 22 amended

In section 22:

- (a) in paragraph (b) delete “higher education provider; or” and insert:

non-university institution; or
- (b) delete paragraph (c) and insert:

(c) the provision and standard of an accredited course provided by an authorised non-university institution.

(c) after paragraph (a) insert:

or

37. Sections 23A to 23C inserted

After section 22 insert:

23A. Inspectors, appointment of

(1) In this section —

certificate means a certificate given under subsection (3).

(2) The Minister, in writing, may appoint persons to investigate —

- (a) compliance with any condition to which a provider's authorisation or a self-accrediting authorisation is subject; or
- (b) compliance with any condition to which ministerial accreditation of a higher education course is subject; or
- (c) suspected contraventions of this Act; or
- (d) any matters relevant to carrying out a review under section 22,

on any terms the Minister decides and specifies in the appointment.

(3) The Minister must give each inspector a certificate of his or her appointment.

(4) A person who ceases to be an inspector must return his or her certificate to the Minister within 21 days.

Penalty: a fine of \$400.

- (5) A certificate that purports to be signed by the Minister is, in the absence of evidence to the contrary, evidence of its contents.
- (6) If requested to do so and if practicable, an inspector must produce his or her certificate for inspection when exercising a function of an inspector.

23B. Inspectors' powers

- (1) For the purpose of investigating any matter that he or she is authorised to investigate, an inspector may do any or all of the following —
 - (a) at any reasonable time, enter, inspect and search any place, other than a dwelling, that the inspector suspects on reasonable grounds is a place where a higher education course is provided;
 - (b) give a person a written direction to produce to the inspector the records that are specified or described in the direction and that are in the person's possession;
 - (c) read and seize or copy any record the inspector suspects on reasonable grounds is or may be relevant to the matter being investigated;
 - (d) direct a person to answer any question that is relevant to the matter being investigated.
- (2) A person who is given a written direction under subsection (1)(b) must obey it.
Penalty: a fine of \$10 000.
- (3) A person who is directed under subsection (1)(d) to answer a question must not refuse to answer unless the answer would tend to incriminate the person or make the person liable to a penalty.
Penalty: a fine of \$10 000.

- (4) A person must not give an inspector information that the person knows is false or misleading.

Penalty: a fine of \$10 000.

23C. Consequences of investigations

- (1) An inspector may give the Minister any information that the Minister may need in relation to performing his or her functions under this Act.
- (2) A prosecution for an offence under this Act cannot be commenced except by or with the approval of the Minister.

38. Section 23 amended

- (1) After section 23(2) insert:

(3A) If the Minister grants a self-accrediting authorisation for a non-university institution, the Minister must arrange for the authorisation to be registered by entering in the register —

- (a) the name of the institution; and
- (b) a description of the higher education courses that the institution is authorised under section 13B(4) to accredit; and
- (c) any other relevant particulars.

- (2) In section 23(4) delete “at reasonable times.” and insert:

during normal office hours.

39. Section 24A inserted

After section 23 insert:

24A. Minister to make National Protocols available for inspection

The Minister must ensure that a copy of the National Protocols is available for public inspection during normal office hours.

40. Section 26A inserted

After section 25 insert:

26A. Protection from liability

- (1) An action in tort does not lie against a person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (2) The protection given by this Act applies even if the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.
- (3) This section does not relieve the State of any liability it might have for the doing of anything by a person against whom this section provides that an action does not lie.
- (4) In this section a reference to the doing of anything includes a reference to the omission to do anything.

41. Section 27A inserted

After section 26 insert:

27A. Evidentiary matters

A certificate that purports to be issued by the Minister stating —

- (a) that at a specified time, a non-university institution did or did not have a provider's authorisation; or
- (b) a condition to which a provider's authorisation was subject at the time specified in the certificate; or
- (c) that at a specified time, a non-university institution did or did not have a self-accrediting authorisation; or
- (d) a condition to which a self-accrediting authorisation was subject at the time specified in the certificate; or
- (e) that at a specified time, a higher education course was or was not accredited; or
- (f) a condition to which a ministerial accreditation of a higher education course was subject at the time specified in the certificate,

is, in the absence of evidence to the contrary, evidence of its contents.

42. Section 28 replaced

Delete section 28 and insert:

28. Agreement to pay costs of considering application or request

- (1) The Minister may enter into a written arrangement with a person who intends to make a request under section 7 or an application under section 9 or 13A for the person to pay —
 - (a) the reasonable costs and expenses incurred by the Minister in considering the request or application; and
 - (b) the reasonable costs and expenses incurred by, or by the Minister on behalf of, a higher education advisory committee appointed to consider and report to the Minister on the request or application.
- (2) Regulations may make provision for and in relation to an agreement referred to in subsection (1) including in connection with —
 - (a) the ambit of the agreement;
 - (b) the making of the agreement;
 - (c) the costs and expenses to be paid under the agreement, including as to the method of calculating the costs and expenses;
 - (d) the methods for resolving any dispute about the costs and expenses that are to be paid under the agreement.

43. Section 29 amended

In section 29 delete “jurisdiction.” and insert:

jurisdiction as a debt due to the Crown.

44. Section 30 amended

(1) In section 30(2)(d) after “determination,” insert:

self-accrediting authorisation,

(2) After section 30(2) insert:

(3) The regulations may provide for a method of calculating a fee referred to in subsection (2)(e), including calculation according to the costs and expenses incurred in providing the service.

