



Western Australia

Higher Education Act 2004

# **Higher Education Regulations 2005**

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Western Australia

## Higher Education Regulations 2005

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**Defined Terms**

## Higher Education Regulations 2005

### 1. Citation

These regulations are the *Higher Education Regulations 2005*<sup>1</sup>.

### 2. Terms used

- (1) In these regulations, unless the contrary intention appears —
- ACN**, which stands for “Australian company number”, has the meaning given to that term in the Corporations Act;
- Australian student** means a student or prospective student who is an Australian citizen or who is an Australian permanent resident within the meaning of the *Migration Act 1958* of the Commonwealth;
- award** means a higher education award;
- Corporations Act** means the *Corporations Act 2001* of the Commonwealth;
- corresponding law** means a law of the Commonwealth, another State or a Territory that corresponds to the Act;
- course**, in relation to an application under section 9, 13 or 17 of the Act, means a higher education course to which the application relates;
- 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;

**overseas student** means a person who holds a student visa in force under the *Migration Act 1958* of the Commonwealth;

**recognised course provider** means —

- (a) a recognised overseas university that is providing an accredited course; or
- (b) an authorised non-university institution that is providing an accredited course;

**registered business name** means a business name that is registered under the *Business Names Registration Act 2011* (Commonwealth);

**registered office**, in relation to a company, has the meaning given to that term in the Corporations Act;

**related**, in relation to a course, has the meaning given to that term in subregulation (2)(b);

**unrelated**, in relation to a course, has the meaning given to that term in subregulation (2)(a).

- (2) For the purposes of these regulations —
  - (a) a course to which an application under section 13 or 17 of the Act relates is **unrelated** if it is in a different field of study from each other course (if any) to which the application relates; and
  - (b) a course to which an application under section 13 or 17 of the Act relates is **related** if it is one of a group of 2 or more courses to which the application relates that are in the same field of study as each other.

[Regulation 2 amended in Gazette 8 Jun 2010 p. 2608;  
27 Nov 2012 p. 5736.]

### 3. Information prescribed (Act s. 7(2)(b))

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

[Regulation 3 inserted in Gazette 8 Jun 2010 p. 2608.]

**4. Information prescribed (Act s. 9(2)(b))**

For the purposes of section 9(2)(b) of the Act, an application for a section 10 determination must include the information specified in Schedule 1.

**5A. Information prescribed (Act s. 13A(2)(b))**

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

*[Regulation 5A inserted in Gazette 8 Jun 2010 p. 2609.]*

**5B. Agreement under Act s. 28(1), content of**

- (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*.

*[Regulation 5B inserted in Gazette 8 Jun 2010 p. 2609-10.]*

**5. Fees prescribed etc. (Act s. 13(2)(a))**

- (1) For the purposes of section 13(2)(a) of the Act, the fee to accompany an application for a provider's authorisation is \$1 500.
- (2) If, after making a preliminary assessment of the application, the higher education advisory committee makes a full assessment of the application, then the applicant —
  - (a) is liable to pay a fee for the full assessment calculated in accordance with subregulation (4); and
  - (b) is entitled to a refund or rebate of the amount of the application fee paid under subregulation (1).
- (3) The fee for the full assessment is payable within 30 days after the applicant is notified of the higher education advisory committee's decision to make the full assessment.
- (4) The fee for the full assessment is the amount equal to the sum of —



- (a) the fees payable under subregulation (5) for each unrelated course; and
- (b) the fees payable under subregulation (6) for each group of 2 or more related courses.
- (5) The fee payable for an unrelated course leading to an award of a kind specified in column 2 of an item in the Table to this regulation is the amount specified in column 3 of the item.
- (6) The fee payable for a group of 2 or more related courses each leading to an award of a kind specified in column 2 in the Table to this regulation is the amount specified in column 3 of the item in the Table that refers to the higher or highest award that can be conferred in respect of a course in the group.

**Fees for provider's authorisation**

| Item | Award                | Fee     |
|------|----------------------|---------|
| 1.   | Diploma              | \$3 860 |
| 2.   | Advanced diploma     | \$3 860 |
| 3.   | Associate degree     | \$4 630 |
| 4.   | Bachelor degree      | \$8 190 |
| 5.   | Graduate certificate | \$4 630 |
| 6.   | Graduate diploma     | \$4 630 |
| 7.   | Masters degree       | \$8 190 |
| 8.   | Doctoral degree      | \$8 190 |

*[Regulation 5 amended in Gazette 14 Aug 2009 p. 3183; 25 Nov 2011 p. 4868.]*

**6. Information prescribed (Act s. 13(2)(b))**

For the purposes of section 13(2)(b) of the Act, an application for a provider's authorisation must include the information specified in Schedule 1.

**7. Fees prescribed etc. (Act s. 17(2)(a))**

- (1) For the purposes of section 17(2)(a) of the Act, the fee to accompany an application for ministerial accreditation of a course is \$1 500.
- (2) However, if the applicant applies at the same time for both a provider's authorisation and ministerial accreditation of a course —
  - (a) an application fee is not payable under subregulation (1); and
  - (b) the fee payable under subregulation (5) (if any) for a full assessment is payable in addition to the fees payable under regulation 5 in relation to the application for a provider's authorisation.
- (3) If, after making a preliminary assessment of the application, the higher education advisory committee makes a full assessment of the application, then the applicant —
  - (a) is liable to pay a fee for the full assessment calculated in accordance with subregulation (5); and
  - (b) is entitled to a refund or rebate of the amount of the application fee paid under subregulation (1) (if any).
- (4) The fee for the full assessment is payable within 30 days after the applicant is notified of the higher education advisory committee's decision to make the full assessment.
- (5) The fee for the full assessment is the amount equal to the sum of —
  - (a) the fees payable under subregulation (6) for each unrelated course; and

- (b) the fees payable under subregulation (7) for each group of 2 or more related courses.
- (6) The fee payable for an unrelated course leading to an award of a kind specified in column 2 of an item in the Table to this regulation is the amount specified in column 3 of the item.
- (7) The fee payable for a group of 2 or more related courses each leading to an award of a kind specified in column 2 of the Table to this regulation is the amount equal to the sum of —
- (a) the amount specified in column 3 of the item in the Table that refers to the higher or highest award that can be conferred in respect of a course in the group; and
  - (b) for each other course in the group — the amount specified in column 4 of the item in the Table that refers to the award that can be conferred in respect of the course.

**Fees for course accreditation**

| <b>Item</b> | <b>Award</b>         | <b>Fee for course for highest award</b> | <b>Fee for additional course</b> |
|-------------|----------------------|---|----------------------------------|
| 1.          | Diploma              | \$4 630                                 | \$1 155                          |
| 2.          | Advanced diploma     | \$4 630                                 | \$1 155                          |
| 3.          | Associate degree     | \$4 630                                 | \$1 155                          |
| 4.          | Bachelor degree      | \$5 940                                 | \$1 470                          |
| 5.          | Graduate certificate | \$4 630                                 | \$1 155                          |
| 6.          | Graduate diploma     | \$4 630                                 | \$1 155                          |

| Item | Award           | Fee for course for highest award | Fee for additional course |
|------|-----------------|----------------------------------|---------------------------|
| 7.   | Masters degree  | \$7 420                          | \$1 850                   |
| 8.   | Doctoral degree | \$7 420                          | \$1 850                   |

*[Regulation 7 amended in Gazette 14 Aug 2009 p. 3184; 25 Nov 2011 p. 4868-9.]*

**8. Information prescribed (Act s. 17(2)(b))**

- (1) For the purposes of section 17(2)(b) of the Act, an application for ministerial accreditation of a course must include the information specified in Schedule 2 Division 1.
- (2) An application for accreditation of a course that is or has been registered under section 23(3) of the Act must also include the information specified in Schedule 2 Division 2.

**9A. Fee, how calculated (Act s. 21A(3)(c))**

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.

*[Regulation 9A inserted in Gazette 8 Jun 2010 p. 2610.]*

**9. Information to be provided by recognised course providers**

- (1) For the purposes of section 30(2)(b) of the Act, a recognised course provider must give the Minister written notice of the following —
  - (a) any proposed change in the ownership of the recognised course provider;
  - (b) any material change in another particular required to be included in an application made by the recognised course provider under section 9, 13A, 13 or 17 of the Act.
- (2) Notice of a proposed change in the ownership of the recognised course provider must be given at least 30 days before the proposed change is made.  
Penalty: a fine of \$5 000.
- (3) Notice of a material change in another particular must be given within 30 days after the change occurs.  
Penalty: a fine of \$5 000.

*[Regulation 9 amended in Gazette 8 Jun 2010 p. 2610.]*

**10. Waiver of fees**

The Minister may in a particular case waive all or part of a fee prescribed in these regulations if, in the Minister's opinion, it is fair to do so in the circumstances of the case.

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

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

*[Heading inserted in Gazette 8 Jun 2010 p. 2610.]*

1. The applicant's name.
2. The applicant's registered business name (if any).
3. The applicant's postal address.
4. If the applicant is a company —
  - (a) the name, address, position in the company, and telephone numbers, of the individual dealing with the application on behalf of the applicant; and
  - (b) the applicant's ACN; and
  - (c) the address of the applicant's registered office; and
  - (d) the name and address of the applicant's company secretary; and
  - (e) the name and address of each director of the applicant.
5. If the applicant is an overseas university —
  - (a) the name of the country in which the applicant was originally established; and
  - (b) particulars of the applicant's establishment, recognition or accreditation by the appropriate authorities of that country.
6. The address of the campus in Western Australia (or the principal campus in Western Australia, if there are more than one) at which the applicant provides or proposes to provide the courses to which the application relates.
7. The address of each other campus in Western Australia (if any) at which the applicant provides or proposes to provide the courses to which the application relates.
8. The name of the vice-chancellor, CEO or other person responsible for the day-to-day management of the applicant.

9. If the applicant provides higher education courses outside Western Australia —
  - (a) the address of the applicant's principal campus outside Western Australia; and
  - (b) the name of the person who is or will be responsible for the day-to-day management of the applicant's campus or campuses in Western Australia.
10. Particulars of any higher education courses previously or currently provided by the applicant outside Western Australia.
11. Particulars of the courses to which the application relates.
12. A statement of the applicant's purpose and goals as a higher education institution.
13. Particulars of the applicant's business plan and other financial information relevant to assessing the applicant's capacity to provide the courses to which the application relates, including —
  - (a) a statement as to whether the applicant, a director of the applicant, or any other individual who is involved in the management of the applicant, has ever become bankrupt, applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounded with its, his or her creditors, or made an assignment of remuneration for the benefit of creditors; and
  - (b) if so, particulars of the circumstances of the bankruptcy, application, composition or assignment.
14. A statement as to whether the applicant, a director of the applicant, or any other individual who takes part in the management of the applicant, has held a provider's authorisation that has been suspended or revoked under the Act or a corresponding law and, if so, particulars of the circumstances of the suspension or revocation.
15. A statement as to whether the applicant, a director of the applicant, or any other individual who takes part in the management of the applicant, has ever been convicted of an offence under a law of the Commonwealth, or of a State or Territory.
16. The number of Australian students and the number of overseas students that the applicant proposes to be able to enrol for each course to which the application relates.

17. The number and level of qualification of the teaching staff that the applicant has engaged or proposes to engage to teach the courses to which the application relates.
18. A statement of the applicant's policies and procedures for selecting teaching staff, and for managing the performance and continuing professional development of teaching staff.
19. A description of the responsibilities to be undertaken by each member of the teaching staff.
20. For each member of the teaching staff of the applicant —
  - (a) a statement as to whether the staff member has ever been convicted of an offence in Western Australia or anywhere else; and
  - (b) if so, particulars of the nature of the offence, the date and place of the conviction and the penalty (if any) imposed for the offence.
21. A detailed description of the buildings, equipment and facilities that will be provided at each campus of the applicant in Western Australia.
22. A statement of the applicant's policies and procedures for dealing with any grievances of academic staff or students.
- 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.
23. Any other information in the possession or control of the applicant that is relevant to determining whether or not the applicant meets the criteria referred to in section 10(1), 13B(1) or 14(1) of the Act, as the case requires.

*[Schedule 1 amended in Gazette 8 Jun 2010 p. 2610-11.]*



**Schedule 2 — Information to be included in applications for course accreditation**

[r. 8]

**Division 1 — Information to be included in all applications for course accreditation**

1. The applicant's name.
2. The applicant's registered business name (if any).
3. The applicant's postal address.
4. If the applicant is a company —
  - (a) the name, address, position in the company, and telephone numbers, of the individual dealing with the application on behalf of the applicant; and
  - (b) the applicant's ACN.
5. The address of each campus in Western Australia at which the applicant intends to provide the course.
6. If the course is accredited in another State or a Territory — particulars of its accreditation and the address of the principal campus at which the course is provided in the State or Territory.
7. The level and title of the course.
8. The title of the higher education award to be conferred on a person who satisfies the course requirements.
9. A statement of the philosophical basis of the course.
10. Particulars of the prerequisites for admission to the course.
11. The number of Australian students and the number of overseas students that the applicant proposes to be able to enrol for the course.
12. A summary of the content of the course.
13. A statement of the methods proposed for delivering the course.
14. A statement of the levels of knowledge and skill to be required to satisfy the course requirements and the requirements of each part of the course.

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**Schedule 2** Information to be included in applications for course accreditation

**Division 2** Additional information to be included in subsequent applications for course accreditation

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15. A statement of the relative weight to be given to each part of the course for the purpose of assessing whether a student has satisfied the course requirements.
16. A description of the methods to be used for assessing whether a student has satisfied the requirements of the course and each part of it.
17. Particulars of the qualifications and the title of the position of the member of the teaching staff who will be responsible for the day-to-day management of the provision of the course.
18. Particulars of the name and qualifications of the person who holds the position referred to in item 17, if the person has already been engaged.
19. Particulars of the qualifications, the title of the positions, the proposed teaching responsibilities, and the number, of the members of the teaching staff who will take part in teaching the course.
20. Particulars of the name, qualifications, title of the position, and the proposed teaching responsibilities of each member of the teaching staff who has already been engaged (if any) to take part in teaching the course.
21. A description of the buildings, equipment and facilities that will be available for the use of staff teaching the course and students undertaking the course.
22. Any other information in the possession or control of the applicant that is relevant to determining whether or not the course meets the criteria referred to in section 18(1)(a) and (b) of the Act.

**Division 2 — Additional information to be included in subsequent applications for course accreditation**

23. A report on the way in which the applicant met the conditions (if any) to which the previous ministerial accreditation of the course was made subject.
24. A description of the changes (if any) implemented in relation to the delivery of the course since the course was last accredited.
25. The number of students who have satisfied the course requirements since the course was last accredited.
26. The number of students who have completed the course since it was last accredited but who failed to satisfy the course requirements.

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Information to be included in applications for course accreditation **Schedule 2**

Additional information to be included in subsequent applications for course accreditation **Division 2**

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27. The number of students who have withdrawn from the course before completing it.
28. A report of the general destination on completion of the course of the students who have satisfied the course requirements since the course was last accredited.
29. Evaluations of the course and of the provision of the course obtained from students, former students, members of the applicant's teaching staff or from any other source.



## Notes

- <sup>1</sup> This is a compilation of the *Higher Education Regulations 2005* and includes the amendments made by the other written laws referred to in the following table <sup>1a</sup>. The table also contains information about any reprint.

### Compilation table

| Citation  | Gazettal                  | Commencement   |
|---|---------------------------|--|
| <i>Higher Education Regulations 2005</i>  | 26 Jul 2005<br>p. 3411-27 | 26 Jul 2005  |
| <i>Higher Education Amendment Regulations 2009</i>  | 14 Aug 2009<br>p. 3183-4  | r. 1 and 2: 14 Aug 2009<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>15 Aug 2009 (see r. 2(b)) |
| <i>Higher Education Amendment Regulations 2010</i>  | 8 Jun 2010<br>p. 2608-11  | r. 1 and 2: 8 Jun 2010<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>9 Jun 2010 (see r. 2(b))   |
| <i>Higher Education Amendment Regulations 2011</i>  | 25 Nov 2011<br>p. 4867-9  | r. 1 and 2: 25 Nov 2011<br>(see r. 2(a));<br>Regulations other than r. 1 and 2:<br>26 Nov 2011 (see r. 2(b)) |
| <b>Reprint 1: The <i>Higher Education Regulations 2005</i> as at 19 Oct 2012</b> (includes amendments listed above) |                           |  |
| <i>Higher Education Amendment Regulations 2012</i>  | 27 Nov 2012<br>p. 5736    | 27 Nov 2012  |

- <sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

| Citation   | Gazettal               | Commencement  |
|--|------------------------|---|
| <i>Higher Education Amendment Regulations 2013</i> r. 3-4 <sup>2</sup> | 19 Jul 2013<br>p. 3265 | On commencement of the<br><i>Commercial Arbitration Act 2012</i><br>s. 44 (see r. 2(b)) |

- <sup>2</sup> On the date as at which this compilation was prepared, the *Higher Education Amendment Regulations 2013* r. 3-4 had not come into operation. They read as follows:

***Higher Education Regulations 2005***

Information to be included in applications for course accreditation

**Schedule 2**

Additional information to be included in subsequent applications for course accreditation

**Division 2**

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**3. Regulations amended**

These regulations amend the *Higher Education Regulations 2005*.

**4. Regulation 5B amended**

In regulation 5B(2) delete “*Commercial Arbitration Act 1985*.” and insert:

*Commercial Arbitration Act 2012*.

**Defined Terms**

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**Defined Terms**

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

| <b>Defined Term</b>                       | <b>Provision(s)</b> |
|---|---------------------|
| ACN .....                                 | 2(1)                |
| applicant .....                           | 5B(1)               |
| Australian student .....                  | 2(1)                |
| award .....                               | 2(1)                |
| Corporations Act .....                    | 2(1)                |
| corresponding law .....                   | 2(1)                |
| course .....                              | 2(1)                |
| higher education advisory committee ..... | 2(1)                |
| overseas student .....                    | 2(1)                |
| recognised course provider .....          | 2(1)                |
| registered business name .....            | 2(1)                |
| registered office .....                   | 2(1)                |
| related .....                             | 2(1), 2(2)          |
| unrelated .....                           | 2(1), 2(2)          |