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HIGHER EDUCATION ACT 2004

**HIGHER EDUCATION
REGULATIONS 2005**

Western Australia

Higher Education Regulations 2005

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Higher Education Act 2004

Higher Education Regulations 2005

Made by the deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Higher Education Regulations 2005*.

2. Interpretation

- (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;

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“higher education advisory committee”, in relation to an application under section 9, 13 or 17 of the Act, means the higher education advisory committee appointed to consider the 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” has the meaning given to that term in the *Business Names Act 1942*;

“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.

3. Fees for section 10 determination

- (1) For the purposes of section 9(2)(a) of the Act, the fee to accompany an application for a section 10 determination is \$10 000.

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- (2) If, after making a preliminary assessment of the application, the higher education advisory committee makes a full assessment of the application, the applicant is liable to pay a fee of \$30 000 for the full assessment.
- (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. Applications for section 10 determination

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.

5. Fees for provider's authorisation

- (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

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- (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.

Table — Fees for provider's authorisation

Column 1	Column 2	Column 3
Item	Award	Fee
1	Diploma	\$3 250
2	Advanced diploma	\$3 250
3	Associate degree	\$3 900
4	Bachelor degree	\$6 900
5	Graduate certificate	\$3 900
6	Graduate diploma	\$3 900
7	Masters degree	\$6 900
8	Doctoral degree	\$6 900

6. Applications for provider's authorisation

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 for course accreditation

- (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.

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- (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.

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- (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.

Table — Fees for course accreditation

Column 1	Column 2	Column 3	Column 4
Item	Award	Fee for course for highest award	Fee for additional course
1	Diploma	\$3 900	\$975
2	Advanced diploma	\$3 900	\$975
3	Associate degree	\$3 900	\$975
4	Bachelor degree	\$5 000	\$1 240
5	Graduate certificate	\$3 900	\$975
6	Graduate diploma	\$3 900	\$975
7	Masters degree	\$6 250	\$1 560
8	Doctoral degree	\$6 250	\$1 560

8. Applications for course accreditation

- (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.

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r. 9**9. Notice of change of particulars**

- (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, 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.

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.

Higher Education Regulations 2005**Schedule 1** Information to be included in applications for a section 10 determination or a provider's authorisation

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

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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;
 - (b) the applicant's ACN;
 - (c) the address of the applicant's registered office;
 - (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.

Higher Education Regulations 2005Information to be included in applications for a section 10 **Schedule 1**
determination or a provider's authorisation

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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.

Higher Education Regulations 2005**Schedule 1** Information to be included in applications for a section 10 determination or a provider's authorisation

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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.
 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) or 14(1) of the Act, as the case requires.

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Information to be included in applications for course accreditation	Schedule 2
Information to be included in all applications for course accreditation	Division 1

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

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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.

Higher Education Regulations 2005**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.

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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**

26. The number of students who have completed the course since it was last accredited but who failed to satisfy the course requirements.
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.

By Command of the deputy of the Governor,

G. M. PIKE, Clerk of the Executive Council.

