

PART 7: Overseas Higher Education Institutions (Non University)

7.1 General requirements to operate in New South Wales

An application from an overseas institution seeking registration in New South Wales will be considered under the provisions of the *Higher Education Act 2001* and National Protocol 2. If the institution is not a university, or does not seek to operate as a university in New South Wales, it may apply for registration as an *overseas higher education institution* under Division 1 of Part 2 of the Act. To be considered for such registration, the institution must operate as a higher education institution in its country of origin and must have at least one course of study accredited under Division 2 of Part 2 of the Act. Where registration is granted, it will be reviewed at intervals of not more than five years and may be subject to conditions.

Registration and accreditation are interdependent processes and an institution may submit a single (combined) application drawing on the key assessment criteria required for registration and accreditation. (Refer to Part 2.5 of these guidelines. Also see Part 4 for the criteria for course accreditation.) Applications from overseas higher education institutions should be submitted to the Department of Education and Training's Recognition Services Directorate. Applications from overseas universities should be submitted to the Department's Higher Education Directorate. Contact details for both Directorates are in Part 2.1 of these guidelines. (Information concerning applications for registration as an overseas university is in Part 8 of these guidelines.)

An institution registered as an overseas higher education institution may also apply for approval to provide specified courses of study to overseas students in New South Wales under section 10 of the Act. The application for approval may be lodged simultaneously with applications for registration and course accreditation, should the applicant so wish. (See Part 3.1 and Part 6 of these guidelines for the process and criteria for approval.)

7.2 Fees for applications from overseas institutions

Applications for registration, accreditation and approval must be accompanied by the prescribed application fees as set out in Appendix 1. Where the Department refers the overseas institution's course or courses to an advisory committee for full assessment, the applicant will also pay an assessment fee for course accreditation based on the qualification level of the course or courses included in the application. Where courses are considered appropriate for streamlined accreditation and are not referred to an advisory committee for full assessment, the accreditation assessment fee will not apply. (See Part 3.8 of these guidelines concerning streamlined assessment for course accreditation.)

7.3 Overview of processes and criteria for considering applications for registration as an overseas higher education institution

There will be two broad stages in considering an application for registration as an overseas higher education institution in New South Wales, namely:

- verification of the institution's academic credentials in its own system
- assessment of comparability with the Australian system.

Verification will be undertaken by the Department, which will independently verify the overseas institution's academic standing in its own system. This will confirm whether the institution and its courses are accredited by an appropriate authority in the country of origin. The Department will also examine the relationship between the overseas institution and any agent or local provider delivering courses on its behalf in New South Wales. The overseas institution's compliance with any relevant Australian professional requirements will also be verified.

Assessment of comparability with the Australian system will follow verification. National Protocol 2 requires this additional process to ensure that the courses and qualifications to be offered by an overseas institution in New South Wales and the methods of delivery will be of comparable standing to those offered by Australian higher education institutions. Assessment of comparability will be required for every application for registration as an overseas higher education institution in New South Wales and will be undertaken by an academic advisor or an advisory committee of academics appointed by the Director-General according to the general principles outlined in Appendix 3.

Where verification and assessment of comparability are satisfactory, the Department will proceed with the course accreditation process. It will inform the institution whether its courses will be considered for 'streamlined' assessment or whether they will be referred to an assessment advisory committee for full assessment. This will be determined as follows:

- If verification demonstrates that the course(s) the overseas institution proposes to deliver in New South Wales have current accreditation from the appropriate authority in the country of origin, they may be submitted for 'streamlined' assessment for accreditation under the *Higher Education Act 2001*. (Refer to Part 3.8 of these guidelines.)
- If the institution's endorsement status in its country of origin is not acceptable in New South Wales, the course(s) will be subject to full assessment by an assessment advisory committee. (Parts 3 and 5 of these guidelines describe the process and criteria for full assessment for course accreditation.)
- If the institution proposes to deliver courses through its New South Wales operation which are not accredited in the country of origin, these new courses will be subject to full assessment by an advisory committee. (The process and criteria for assessing applications for course accreditation are set out in Parts 3 and 5 of these guidelines.)

7.4 Steps in considering applications from overseas higher education institutions for registration, accreditation and approval

The main steps in considering applications from overseas higher education institutions for registration, course accreditation and approval to provide specified courses to overseas students in New South Wales are described below. Details concerning each step are included in the paragraphs that follow.

(a) Verification of overseas institution's academic credentials in country of origin

Step 1

Applications for registration, accreditation and, where relevant, for approval are submitted to Department with application fees for registration/accreditation and, where relevant, application fee for approval.

Step 2

Department acknowledges applications and application fees, and corresponds with applicant as appropriate.

Step 3

Department undertakes verification of institution's academic credentials in the country of origin.

(b) Assessment of comparability with the Australian system**Step 4**

Department consults as appropriate and informs applicant that assessment of comparability and course accreditation will commence.

Step 5

Applicant pays assessment fee for accreditation if full assessment for course accreditation is required.

Step 6

Department acknowledges assessment fee for accreditation, where relevant, and appoints academic advisor(s) to assess comparability with Australian system. Also, Department proceeds with course accreditation, either streamlined or full assessment.

Step 7

Academic advisor(s) assesses comparability with Australian system and provides advice to Department.

Step 8

Following satisfactory assessment for comparability and course accreditation, Department evaluates application for approval, where relevant.

(c) Department reports to Director-General**Step 9**

Department prepares report for Director-General.

Step 10

Applicant responds to the Department's report.

Step 11

Director-General decides outcome of application; decision conveyed in writing to applicant.

(Step 1) Submission of application and application fees

An application is lodged by letter from the principal executive officer (PEO) of the overseas institution. The letter should state that the institution is applying for registration as an overseas higher education institution, for accreditation of the courses related to the registration and, where relevant, for approval to provide specified courses to overseas students. The letter must be accompanied by the prescribed application fees and should identify the course(s) for which the applicant is seeking accreditation and, where relevant, the courses for which it is seeking approval. Where the institution intends to operate in any Australian jurisdiction additional to New South Wales, details must be provided in the letter. If previous applications have been made to other State and Territory

accrediting agencies, the letter must identify the accrediting agencies concerned, and the dates and outcomes of the applications. The Department will confirm the institution's advice with the relevant agencies.

One unbound copy of the institution's submission must be submitted to the Department with the letter from the PEO. The submission will include the information required for Steps 3 and 7 below to enable the Department to verify the institution's academic credentials in the country of origin and to determine comparability with the Australian system. In the event that the courses are considered appropriate for streamlined accreditation, the submission should also provide the details concerning the courses set out in Part 3.8 of these guidelines. (Where full assessment is required, the institution may be requested to provide additional information required in Part 5 of these guidelines.)

If the institution is applying for approval to provide courses to overseas students, the PEO must sign a statutory declaration to enable the Department to assess the applicant as a 'fit and proper person' as required by Clause 13.7 of the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students, 2001*. (The format for the statutory declaration is at Appendix 5. The information to be provided to the Department in support of an application for approval is at Part 6 of these guidelines.)

(Step 2) Acknowledgement of applications

The Department will acknowledge, in writing, receipt of the applications and the application fees. Where the Department is satisfied that the documentation is complete, it will request the applicant to provide five bound copies of the submission. If the documentation is incomplete, the Department will request additional information. The applicant will include this additional information in the submission and submit the bound copies to the Department.

(Step 3) Verification of overseas institution's academic credentials in country of origin

The Department will undertake administrative verification of the overseas institution's academic credentials in the country of origin and other related matters. For this purpose, the submission must provide documentary evidence that:

- the overseas institution is a *bona fide* higher education institution, legally established in its country of origin
- the overseas institution operates as a recognised higher education institution in its country of origin
- the course or courses proposed to be offered by the overseas institution in New South Wales have been appropriately accredited in the institution's country of origin by an authority that, in the opinion of the Director-General, is the competent authority to do so
- any agents or local providers acting on behalf of the overseas institution have requisite authority from the institution
- the relationship between the overseas institution and any agent or local provider nominated to deliver the course(s) in New South Wales is appropriate and *bona fide*

- where applicable, the status of courses and qualifications to be offered by the overseas institution in New South Wales will be recognised for the purpose of the admission of graduates to professional practice within Australia
- the overseas institution will be responsible for conferring the qualifications offered by its New South Wales operation
- the overseas institution will retain authority for quality assurance for its New South Wales operation.

(Step 4) Consultation with key agencies

Following the verification process, the Department may consult with public and private bodies as considered appropriate. This will provide opportunity for broader consideration of the institution's application and its potential to benefit the New South Wales community.

The Department will prepare advice to the Director-General concerning the outcome of the verification and, where relevant, the consultation. If the Director-General is satisfied with the outcome of the verification, the Department will inform the applicant in writing that assessment of comparability and course accreditation will proceed. It will advise the applicant whether the course or courses to be offered in New South Wales will be submitted for 'streamlined' accreditation within the Department or referred to an advisory committee for full assessment using the procedures and criteria for accreditation set out in Parts 3 and 5 of these guidelines.

(Step 5) Applicant pays assessment fee if full course assessment is required

If the courses are to be referred for full assessment to an assessment advisory committee, the applicant must pay the prescribed assessment fee for course accreditation based on the qualification level of courses included in the application. The Department must receive the assessment fee, where it is required, before course assessment proceeds. Where there is to be streamlined course accreditation, the assessment fee will not apply.

(Step 6) Appointment of academic advisor(s) to assess comparability with the Australian higher education system

The Director-General will appoint an academic advisor or, where considered appropriate, an advisory committee of up to three academics to assess the overseas education institution's comparability with the Australian system. The academics may be drawn from universities and non self-accrediting higher education institutions, and will be appointed according to the general principles set out in Appendix 3.

The Department will acknowledge in writing the receipt of the assessment fee for accreditation, where the fee is required. It will inform the applicant of the appointment of the academic advisor(s) to determine comparability. Where it is considered necessary to refer the overseas institution's course(s) for full assessment for accreditation, the Department will also advise the applicant of the appointment of an advisory committee to assess the course(s) using the processes and criteria set out in Parts 3 and 5 of these guidelines. (An advisory committee for full course assessment may include the academic advisors who assess the overseas institution's comparability with the Australian system.)

(Step 7) Assessment of comparability with the Australian higher education system

The academic advisor(s) appointed to determine comparability with the Australian system will review the institution's application which must provide evidence that:

- the course(s) to be offered by the overseas institution in New South Wales are comparable in requirements and learning outcomes to a course at the same level in a similar field at an accredited Australian higher education institution
- the overseas institution has delivery arrangements in place for its course(s), including appropriate premises and arrangements for academic oversight and quality assurance, that are comparable to those offered by a recognised Australian higher education institution
- the arrangements which the overseas institution proposes for monitoring the operation of the course(s), for maintaining academic oversight and for quality assurance of its New South Wales operation are satisfactory and meet Australian standards
- the proposed staffing arrangements are appropriate and adequate. (For this purpose, advice should be included on whether the overseas institution will dispatch its own staff for face-to-face teaching or involve other academics.)
- the overseas institution has in place appropriate financial and other arrangements to permit the successful delivery of the course(s) in New South Wales
- appropriate arrangements are in place to protect students in the event of commercial failure or closure.

The advisor(s) will provide advice to the Department on whether the overseas institution meets these requirements for comparability with the Australian system.

(Step 8) Assessment for approval to provide courses to overseas students

Where an overseas institution submits an application for approval simultaneously with its applications for registration and accreditation, the Department will assess the application according to the procedures and criteria set out in Part 6 of these guidelines. The assessment for approval to provide specified courses to overseas students will be undertaken when the Department is satisfied that the overseas institution's applications for registration and accreditation meet the relevant requirements. (An overseas institution should be aware that it is not essential to submit an application for approval *simultaneously* with its applications for registration and course accreditation. If it so wishes, the institution may make a separate application for approval after it commences operation as a registered overseas higher education institution in New South Wales.)

(Step 9) Department prepares report to Director-General

The Department will prepare a report to the Director-General based on the outcome of the verification, the assessment of comparability and, where relevant, the consultation. The report will also advise of the outcome of the course accreditation process and, where relevant, the Department's assessment of the application for approval to provide courses to overseas students.

- If the institution's application to operate in New South Wales is supported, the report will include a formal recommendation for registration of the institution as an overseas higher education institution, accreditation of the course(s) associated with the registration and, where relevant, approval to provide specified courses of study to overseas students. The report may recommend that registration, accreditation and/or approval be subject to conditions.
- Where support for the institution's application was qualified, the Department may recommend that the institution be invited to re-apply for registration as an overseas higher education institution within a specified period of time.
- If the Department and the academic advisor(s) are of the view that requirements have not been met satisfactorily, and that the institution is unlikely to meet them or is incapable of doing so, the report will recommend that the institution not be registered as an overseas higher education institution.

(Step 10) Overseas institution responds to the report

The Department will forward a copy of the report to the overseas institution and advise it in writing of the proposed decision. Where it is proposed that the institution not be registered as an overseas higher education institution, or where it is proposed that registration be subject to conditions, the advice will include a statement of the underlying reasons.

The institution will have 28 days in which to respond to the Department's proposed decision and to lodge a written objection. If the proposed decision is that registration be granted subject to conditions, the Department and the academic advisor(s) will review the institution's response and provide advice to the Director-General. If the proposed decision is that the institution not be registered, the institution may lodge an objection and request an internal review. The Director-General will appoint an independent advisor with experience in higher education administration to review the application, the Department's proposed decision and the institution's response to the proposed decision.

(Step 11) Director-General's decision

When all the information available concerning the application has been reviewed, the Department will forward its report to the Director-General together with advice on the institution's response to the proposed decision and the outcome of any internal appeal process. The Director-General's decision will be conveyed in writing to the institution.

An aggrieved or unsuccessful applicant may apply to the Administrative Decisions Tribunal for a review of specified decisions made by the Director-General. (See section 17 of the *Higher Education Act 2001*.)

7.5 Finalising the process

The Department will ensure that all necessary details of an overseas institution's registration, course accreditation and, where relevant, its approval to provide specified courses to overseas students in New South Wales are recorded on the *Register of Higher Education*, including the names of any providers and local agents delivering the courses. Where relevant, it will inform the Commonwealth Department of Education, Science and Training that the overseas institution and the specified courses to be provided to overseas students are registered on CRICOS.

7.6 Maintaining authority to operate in New South Wales

An overseas institution authorised to operate in New South Wales must be fully aware of the following matters concerning registration as an overseas higher education institution, course accreditation and approval to provide specified courses to overseas students in this State:

- The authority granted to an overseas higher education institution by the Director-General to operate in New South Wales is limited to any nominated local agents.
- The *Higher Education Act 2001* provides for variation, suspension and cancellation of registration, course accreditation and approval to conduct specified courses for overseas students.
- Registration, course accreditation and approval will be reviewed at intervals of not more than five years. Prior to the lapse of the five-year period, an overseas higher education institution may seek renewal of registration, accreditation and approval to provide specified courses of study to overseas students.
- The processes and criteria for renewal of registration, accreditation and approval will be the same as those used for considering the initial applications. Overseas higher education institutions must ensure that they allow adequate time for their applications for renewal to be finalised prior to the expiry dates.