



Guidance Note: *Varying a Period of Registration or Accreditation*

When would TEQSA vary a registration or accreditation period?

This guidance note covers the processes of TEQSA either shortening or cancelling a higher education provider's period of registration or accreditation of course(s) of study because a provider has:

- 4 failed to meet the requirements of the *Higher Education Standards Framework (Threshold Standards) 2015* (HES Framework) in relation to its registration or accreditation of a course, or
- 4 breached a condition imposed on its registration or accreditation.

At its discretion, TEQSA may also vary periods of registration or accreditation for other purposes by mutual agreement with a provider, such as for the purposes of aligning regulatory requirements and minimising regulatory impact on providers. This could include granting an extension under either section 37A or section 57A of the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).

Relevant legislation

The relevant legislative framework is:

- 4 the TEQSA Act, as amended from time to time
- 4 HESF Standards¹ designated as applicable to registration
- 4 HESF Standards² designated as applicable to registration.

Basic principles of regulation

When making a decision to shorten or cancel a period of registration or course accreditation, TEQSA considers the relevant evidence about a provider. In doing so, TEQSA complies with the basic regulatory principles set out in the TEQSA Act of *reflecting risk, proportionate regulation, and regulatory necessity*.

- 4 Reflecting risk
 - 4 TEQSA takes into account (as applicable) the provider's:
 - § scholarship

¹ See Column 2 in 'Table 1 – Threshold Standards' in the HES Framework.

² See Column 4 in 'Table 1 – Threshold Standards' in the HES Framework.

- § teaching and research
 - § internal quality assurance
 - § student experiences
 - § financial status and capability
 - § previous compliance with the HES Framework, and
 - § likelihood of future compliance.
- 4 Proportionate regulation
 - 4 TEQSA considers whether shortening or cancelling a registration or course accreditation is proportionate to any non-compliance or risk of future non-compliance with the HES Framework.
 - 4 Regulatory necessity
 - 4 TEQSA considers whether shortening or cancelling a registration or course accreditation would burden the provider any more than necessary.

Registration

Part 7 of the TEQSA Act states that where a higher education provider has:

- 4 failed to meet the Threshold Standards; or
- 4 breached a condition imposed on its registration,

TEQSA may:

- 4 shorten the period of the provider's registration; or
- 4 cancel the provider's registration.

Shortening registration

Shortening a higher education provider's registration involves bringing forward the date on which the registration is due to expire. In these circumstances, the provider must apply to renew its registration at an earlier time (either 180 days prior to the new date or such shorter period as TEQSA allows).

Before making a decision to shorten a period of registration, TEQSA will give the provider an opportunity to comment on the basis on which such a decision is being considered and will consider the provider's response.

Cancelling registration

Cancelling a provider's registration means the provider cannot continue its higher education operations from the date of effect of the cancellation. Cancelling registration is the most serious administrative sanction available to TEQSA. For this reason, TEQSA will only decide to cancel registration where there are no effective alternative regulatory remedies available.

Before making a decision to cancel a registered higher education provider's registration, TEQSA must give both the provider and the Minister of the relevant State or Territory responsible for higher education a written notice. The notice must state that TEQSA intends to make a decision

to cancel the provider's registration for specified reasons and it must provide a reasonable opportunity for the provider to respond to TEQSA in relation to the proposed decision. TEQSA must consider this response.

When making a decision to cancel registration TEQSA will also consider what transitional arrangements need to be made, including for any third-party arrangements the provider currently has in place, to ensure that students' interests are appropriately addressed.

Once a higher education provider's registration has been cancelled, the provider is prevented from applying again for registration for a period of two years after the date the cancellation takes effect. TEQSA may shorten this period if it considers it appropriate to do so.

Course accreditation

TEQSA accredits courses of study offered by registered higher education providers where the provider does not have the authority to accredit its own courses. All accredited courses of study must meet and continue to meet the requirements of the HES Framework, including in particular the Provider Course Accreditation Standards.

TEQSA may shorten or cancel the accreditation of a course(s) of study after considering other options for addressing a provider's non-compliance with the Standards. TEQSA may take this action where:

- 4 the accredited course of study does not meet the Provider Course Accreditation Standards, or
- 4 there is a breach of a condition imposed on the accreditation of the course of study.

If a course accreditation has been cancelled, the provider must stop delivering the course to students from the date of effect of the cancellation.

If an accreditation is shortened, the provider must apply to renew the accreditation of the course at an earlier time (either 180 days before the new date set by TEQSA or a shorter time period that TEQSA allows) or stop delivering the course from the new date. A higher education provider must not:

- 4 falsely represent that it offers a course of study leading to a higher education award
- 4 falsely represent that a course of study is accredited, or
- 4 offer a course of study, which leads to a regulated higher education award, where the course of study is not accredited.

Before making a decision to shorten a period of course accreditation, TEQSA will give the provider an opportunity to comment on the basis on which such a decision is being considered and will consider the provider's response.

Review of decisions

Decisions to vary a provider's registration or course accreditation may be reviewed by the Administrative Appeals Tribunal under part 10 of the TEQSA Act.

National Register

TEQSA maintains the National Register of higher education providers. The National Register is the means by which TEQSA publishes the status of a provider, including whether a higher education provider's registration or course accreditation(s) have been shortened or cancelled.

Public reporting

All decisions to vary or cancel a registration or accreditation made by TEQSA are noted on the National Register after the provider has been notified of the decision and has had the opportunity to comment on the information to be published. TEQSA will not, except in exceptional circumstances, note a decision on the register, or publish a public report on the National Register, until the period for applying for review of the decision has expired or, in cases where a review application is made, until the review is completed.

Criminal offences and civil penalty provisions

The TEQSA Act includes offences and civil penalty provisions relating to registered higher education providers. The offences and civil penalty provisions include where:

- 4 a provider offers a regulated higher education award and is not a registered higher education provider (section 105), or
- 4 a provider represents that it offers or confers a regulated higher education award and is not a registered higher education provider (section 106).

Disclosure

For information about TEQSA's approach to public disclosures of its regulatory decisions, see TEQSA's Public Disclosure Policy at <http://www.teqsa.gov.au/for-providers/frequently-asked-questions-providers>

Further information

Providers should contact their TEQSA Case Manager in the first instance.

Resources and references

TEQSA (2016), *Explanations of terms in Part A of the HES Framework 2015*, <<http://www.teqsa.gov.au/explanations-hes-framework-terms>>.

Version #	Date	Key changes
1.0	19 August 2016	Made available as beta version for consultation. Replaces previous information sheets on 'shortening or cancelling' a period of registration or accreditation.