

# Guidelines for the use of the word ‘university’ in company names

## Introduction

1. Protecting the use of the word ‘university’ is one element of Australia’s higher education quality arrangements. Restricting the use of the word ‘university’ in line with these guidelines ensures that employers and students can be confident that any institution with the word ‘university’ in its title meets the relevant higher education quality requirements. A company name that includes the word ‘university’ or letters, words or expressions of like import to the word ‘university’ cannot be used by a company under the *Corporations Act 2001* (the Act) unless the Minister responsible for Education (the Minister) has approved in writing the use of that name by the applicant pursuant to the *Corporations Regulations 2001*.
2. The Minister has authorised the following employee of the Department Education (the Department) to grant or to refuse to grant consent to applications to use the word ‘university’ in the name of a company on his or her behalf:
  - Branch Manager, Strategy and Implementation Branch.
3. These Guidelines set out the procedures to be followed and the criteria which will normally be applied in considering applications for written consent to use a company name that includes the word ‘university’. However, each application will be considered on its merits, having regard to the individual circumstances involved, to allow the Minister or a person authorised by the Minister to exercise discretion.
4. All applications to the Australian Securities and Investments Commission (ASIC) must be accompanied by the written consent of the Minister or a person authorised by the Minister.

*Note: Where these Guidelines refer to the use of the word ‘university’ in a company name, the reference to ‘university’ also includes letters, words or expressions of like import to the word ‘university’.*

## Background

5. The Tertiary Education Quality and Standards Agency (TEQSA) is the national body responsible for the regulation and quality assurance of higher education in Australia. Providers who fall within TEQSA’s jurisdiction must be registered with TEQSA.
6. TEQSA regulates higher education providers against the Higher Education Standards Framework. The Standards Framework sets out the criteria that providers must meet in order to be registered by TEQSA, including registration in a category that permits the use of the word ‘university’. The Standards Framework is available at <http://www.comlaw.gov.au/Details/F2012L00003> .

## Corporations Act, Corporations Regulations and other legislation

7. Sections 147 and 601DC of the Corporations Act 2001 and regulations 2B.6.02 and 5B.3.02 of the *Corporations Regulations 2001* operate to restrict the use of the word ‘university’ in company names. Specifically, subregulations 2B.6.02(4) and 5B.3.02 operate such that an application for registration, reservation or a change of name which uses or includes the word ‘university’, must be accompanied by the written consent of the Minister or a person authorised by the Minister.

### **Criteria for granting consent**

8. Consent will normally be granted for the use of the word ‘university’ in a company name where the applicant:
- a) is a higher education provider as defined in the *Tertiary Education Quality and Standards Agency Act 2011*, and is registered by TEQSA in a category that permits the use of the word ‘university’; or
  - b) is not a higher education provider as defined in the *Tertiary Education and Quality Standards Agency Act 2011*, however is an overseas company or body approved in its home country by that country’s registration or accreditation authority; or
  - c) is controlled entirely by another company or body that is a higher education provider as defined in the *Tertiary Education Quality and Standards Agency Act 2011*, and is registered by TEQSA in a category that permits the use of the word ‘university’, and
    - i) the application is supported by the university concerned; and
    - ii) the proposed name accurately reflects the purpose for which the company in question is being formed.
9. Consent will normally be granted where the applicant does not intend to provide education services or information about education services, issue higher education awards or intend in any other respect to operate or purport to operate as a university. In this case:
- a) the proposed name as a whole must accurately reflect the purpose for which the company is being formed and not be likely to mislead people dealing with the company about the nature of its activities, or its connection to a particular university; and
  - b) if the proposed name implies a connection with an existing university<sup>1</sup> (for example, Sydney University Cricket Club Pty Ltd), the application must be supported by the university concerned.

### **How to apply**

10. Applicants should specifically address the above criteria and include all required supporting documentation (listed below in paragraph 11). Applications should be submitted to:

Branch Manager  
Strategy and Implementation Branch  
Higher Education Reform Group  
Department of Education  
GPO Box 9880  
Canberra ACT 2601

or:

[highered@education.gov.au](mailto:highered@education.gov.au)

### **Supporting documentation**

11. All applications to the Department must include the following supporting documentation:
- the proposed company name;
  - a description of the applicant’s intended business, the nature of its activity and the relevant criterion in paragraphs 8 and 9 above under which it is seeking consent;

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<sup>1</sup> A company or body that is approved to use the word ‘university’ in a company name.

- a statement on whether or not the applicant intends to provide education services or information about education services, issue higher education awards or intends in any other respect to operate or purport to operate as a university;
- if the company is not registered by TEQSA, but has authority to operate as a university as outlined in criterion 8(b), evidence of the applicants authority to operate as a university from:
  - the relevant Australian State or Territory authority; and
  - for an overseas company or body, the applicants home country registration or accreditation authority;
- if the company name has a connection with an existing university and the activities of the applicant will be controlled completely by the relevant university, as outlined in criterion 8(c), written confirmation from a senior delegate of the relevant university stating that:
  - the activities of the applicant will be controlled completely by the relevant university;
  - the application is supported by the relevant university;
  - the applicant's proposed name accurately reflects the purpose for which the company was/will be formed; or
- if the proposed name implies a connection with an existing university, as outlined in criterion 9(b), written support from a senior delegate from the relevant university for the proposed name.

#### **Processing of applications**

12. For the purpose of determining an application, the Minister or a person authorised by the Minister may, by written notice, seek additional information.
13. A written notice requesting additional information will specify the date by which the applicant must provide the further information specified. If an applicant fails to comply with such a request for further information, the Minister or a person authorised by the Minister will consider the application on the basis of the available information and may refuse the application.
14. Applications will be handled by the Department in accordance with the provisions of the *Privacy Act 1988*. Information contained in applications will only be used for the purposes of determining whether consent will be granted for the use of the word 'university' in a company name. Applications may be disclosed to other Commonwealth Departments or agencies including TEQSA and ASIC and State or Territory governments where required for the purpose of determining the outcome of the application. Applications will not otherwise be disclosed unless required or authorised by or under law. Outcomes of applications may be disclosed to other Commonwealth, State or Territory governments or agencies, including TEQSA and ASIC.
15. As a general rule, applicants will be notified in writing of the outcome of their application within two months of receipt. The time required to determine an application may be extended where it raises complex issues or additional information is required from the applicant. Applicants will be informed if the application cannot be determined within two months of receipt.

#### **Revocation of consent**

16. Consent to use the word 'university' in a company name may be granted subject to conditions. If any such condition or conditions are subsequently breached, consent may be

revoked. ASIC may then direct the relevant body to change its name under section 158 or 601DJ of the Act.

17. Consent is granted on the basis of compliance with the criteria set out in these Guidelines. Consent may be revoked if this compliance is not ongoing. For example, consent may be reviewed or revoked if an applicant's circumstances significantly change to the extent that it no longer meets the criteria under which it was granted consent.

### **Review and appeal**

18. Applicants who wish to appeal against a decision may, in the first instance, seek an internal review of the decision by the Group Manager, Quality and Student Group. All requests for an internal review of a decision must:

- a) be made to the following address within 28 days of the date of the decision:

Group Manager  
Higher Education Reform Group  
Department of Education  
GPO Box 9880  
Canberra ACT 2601

or

[highered@education.gov.au](mailto:highered@education.gov.au)

- b) be accompanied by the reasons why the applicant wants the decision to be reversed; and  
c) address the reasons given by the Minister or a person authorised by the Minister in refusing the application.

19. Applicants should note that decisions will be internally reviewed only once. A request for the internal review of a decision that is not made within 28 days of the date of the decision may be refused.

20. Applicants may also be able to seek judicial review of decisions under the *Administrative Decisions (Judicial Review) Act 1977* or the common law and should seek their own advice in relation to such review.

### **Further enquiries**

21. Further enquiries regarding applications for use of a company name that includes the word 'university', and these Guidelines should be directed to the Department at the address stated in paragraph 10 of these Guidelines or via email to [highered@education.gov.au](mailto:highered@education.gov.au).

### **Criminal Code**

22. In respect of information of any kind submitted to the Minister or the Commonwealth, the *Criminal Code Act 1995* (Cth) provides that giving false or misleading information is a serious offence.