



Australian Government

Tertiary Education Quality and Standards Agency

TEQSA

Application Guide for variation or revocation of a condition

Sections 32 and 53 of the TEQSA Act

effective from 15 August 2012

This document will be reviewed by TEQSA
from time to time

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BACKGROUND

TEQSA Act

Registered higher education providers must comply with **conditions of registration** set out in Division 2 of Part 3 of the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act). TEQSA may impose other conditions on registration in accordance with subsection 32(1) of the TEQSA Act.

Other conditions imposed on registration may be varied or revoked by TEQSA either:

- on the agency's own initiative in accordance with subsection 32(2) of the TEQSA Act, or
- upon application by the higher education provider in accordance with subsection 32(3) of the TEQSA Act.

A registered higher education provider must also comply with any **conditions imposed by TEQSA on the accreditation of a course of study** in accordance with subsection 53(1) of the TEQSA Act.

Conditions imposed on accreditation of a course of study may be varied or revoked by TEQSA either:

- on the agency's own initiative in accordance with subsection 53(2) of the TEQSA Act, or
- upon application by the higher education provider in accordance with subsection 53(3) of the TEQSA Act.

Subsections 32(4) and 53(4) of the TEQSA Act provide that:

'The provider's application must be:

- a. in the approved form; and
- b. accompanied by any information, documents and assistance that TEQSA requests; and
- c. accompanied by the fee determined under section 158 for an application under this section.'

APPLICATION FOR VARIATION OR REVOCATION OF A CONDITION

TEQSA has developed the Application Form for Variation or Revocation of a Condition for use by higher education providers when applying to TEQSA to vary or revoke one or more conditions in accordance with the provisions of subsections 32(3) and 53(3) of the TEQSA Act.

TEQSA will consider applications for variation or revocation of a condition against the requirements of:

- the TEQSA Act available at: <http://www.comlaw.gov.au/Details/C2011C00582>, and
- the Threshold Standards, which include the *Provider Standards* and the *Qualification Standards*, available at: <http://www.comlaw.gov.au/Details/F2012L00003/Download>.

Completing the Application Form

There are four sections to the Application Form:


- Section 1** Provider details
- Section 2** Condition details
- Section 3** Revocation of condition(s)
- Section 4** Variation to condition(s).

The Application Form contains sections requiring free-text responses. Where the same responses are appropriate for more than one section, or where attachments contain relevant information for more than one section, cross-references to the relevant pages and/or information can be made.

Where the Application Form or any attachments refer to information or evidence on the applicant's website, the weblink reference (url) should be noted in full, together with the exact location of the relevant information – for example, the name of the document and page number or section number that is being referred to. The url reference should hyperlink to that url. If information is referred to on a website, ensure that:

- the system is accessible to TEQSA
- appropriate checks have been made to ensure that access is not hindered by internal firewall protection
- there is facility to print documents
- there is facility to save and download documents.

If special provision needs to be made for TEQSA to access the provider's intranet in order to retrieve information, these arrangements need to be made with TEQSA prior to formal submission of the application. Failure to do so will have an impact on TEQSA's ability to assess the application.

This symbol  is used throughout the Application Form and the Application Guide to indicate that something should be attached to the application.

Each attachment must:

- be a controlled document (include a title, author, approver, and date/version number)
- have the title in the heading of the document, consistent with the attachment name listed at Attachment 1 of the Application Form
- include page numbers (x of y) and version numbers in the footer of the document
- be sequentially and clearly labelled so that it may be readily located and referenced by TEQSA. For example, if there are three attachments relevant to section 3.3, these would be numbered as Attachment 3.3a, 3.3b, and 3.3c.

Queries and process clarification

Further queries regarding the process for applying for variation or revocation of conditions can be directed to the relevant case manager in the Regulation and Review Group at TEQSA directly, or via email to enquiries@teqsa.gov.au, or by telephoning 1300 739 585.

Please note that TEQSA officers can respond to specific questions about the meaning or interpretation of questions in the Application Form. However, they are not able to otherwise assist or guide providers in how to complete the Application Form.

Submitting the application

Applications must be submitted via the provider portal, using the application form *Vary/revoke condition*.

Applications for variation and/or revocation of conditions must also be accompanied by the non-refundable prescribed application fee.

Fees

Payment of the non-refundable fee must be made at the time of submission of the application.

The payment must be accompanied by a completed payment form/invoice available from: <http://www.teqsa.gov.au/sites/default/files/TEQSA%20Payment%20Form%20and%20Invoice.pdf>.

The completed payment form/invoice must include the legal name of the provider. In the 'payment purpose' section of the payment form the provider must insert the words 'fee – application for variation [or revocation] of a condition'.

The fees for making the application do not attract GST. Refer to TEQSA's Fee Schedule and Fee Policy available at: www.teqsa.gov.au/teqsa-fees.

Fees are non-refundable if the provider withdraws its application for variation or revocation of a condition.

TEQSA's ABN is 50 658 250 012.

Following submission

TEQSA will consider the information provided in the Application Form for Variation or Revocation of Condition(s) and any accompanying attachments.

TEQSA may initiate a range of actions, including:

- requesting further information under section 28 of the TEQSA Act
- using the information provided to update the National Register of Higher Education Providers
- using the information provided to update higher education provider risk profiles
- conducting a compliance assessment in accordance with section 59 of the TEQSA Act
- conducting an accreditation assessment in accordance with section 61 of the TEQSA Act.

The timeframe in which TEQSA may make a decision to vary or revoke a condition will depend on: the nature of the condition(s) being assessed for variation or revocation; any additional information, documentation or assistance that TEQSA requires; the time taken for such additional information, documentation or assistance to be provided to TEQSA; and the assessment process required to be undertaken by TEQSA in order to reach a decision.

TEQSA's decisions

Decisions relating to self-accrediting authority

Paragraph 33 (1)(b) of the TEQSA Act provides that if TEQSA proposes to make a decision to vary or revoke a condition restricting or removing the provider's authority to self-accredit one or more courses of study, that before doing so, TEQSA must consult on its proposed decision in accordance with subsection 33(2).

Subsection 33(2) of the TEQSA Act requires that TEQSA gives the provider and the Minister for each relevant state and territory responsible for higher education: (a) a written notice stating that TEQSA intends to make the decision for specified reasons; and (b) a reasonable opportunity to make representations to TEQSA in relation to the proposed decision. TEQSA must have regard to any representation received.

Notification of Decision

In accordance with sections 34 and 54 of the TEQSA Act, TEQSA must, within 30 days of making a decision about the revocation and/or variation of condition(s), notify the provider of its decision and the reasons for the decision.

TEQSA's decisions in relation to variation of a condition imposed on a registration or variation of a condition imposed on a course accreditation may be reviewable in accordance with Division 1 of Part 10 of the TEQSA Act.

Complaints

Providers who are dissatisfied with the way TEQSA handled particular matters may contact the Commonwealth Ombudsman. The Commonwealth Ombudsman will usually expect that attempts to resolve a complaint with TEQSA have been made before approaching the Ombudsman. More information in relation to complaints about TEQSA is available at www.teqsa.gov.au/complaints.

Confidentiality of information

Providers are asked to identify in writing any information that they consider should be protected as confidential information in considering their application for variation or revocation of a condition, including reasons for the request. TEQSA may request further information from an provider about its claim for confidentiality.

TEQSA will consider all such requests. While TEQSA has certain statutory obligations of confidentiality, pursuant to Division 2 of Part 10 of the TEQSA Act, providers should note that TEQSA also operates within a public accountability framework. This includes obligations:

- to provide information to Ministers, the Parliament or Parliamentary Committees
- under the *Freedom of Information Act 1982*, the *Auditor-General Act 1997*, and the *Ombudsman Act 1976*
- to provide reasons for TEQSA's decisions or details about TEQSA's activities, including in the context of court or tribunal proceedings.

If TEQSA receives a request to disclose a provider's confidential information, TEQSA will usually endeavour to consult the provider, and to give the provider an opportunity to make submissions on whether TEQSA should release the information. In certain cases this course of action may not be possible.

Privacy note

TEQSA is obliged to protect any personal information about individuals in accordance with the provisions of the *Privacy Act 1988*. TEQSA collects the personal information sought in this application so that it can assess the application to have one or more conditions varied or revoked by TEQSA. TEQSA may also use the information provided for the purpose of assessing or enforcing compliance with any legislation that TEQSA has responsibility for enforcing. TEQSA usually discloses personal information it collects through this application process to:

- Commonwealth, state or territory agencies with responsibility for the regulation of education (including DEEWR, DIISRTE and the Australian Skills Quality Authority), for the purposes of informing assessment of the application
- external experts that may be contracted by TEQSA for the purpose of providing advice to inform assessment of the application.

False and misleading information

Note that giving false or misleading information is a serious offence.

SECTION 1 – PROVIDER DETAILS

1.1 Type of application

Indicate whether the application relates to:

- variation of one or more conditions, or any part of one or more conditions, and/or
- revocation of one or more conditions.

Providers seeking variation of one or more conditions are required to complete sections 1, 2 and 4 of the Application Form. Providers seeking revocation of one or more conditions are required to complete sections 1, 2 and 3 of the Application Form. Providers seeking both variation and revocation of one or more conditions are required to complete all sections of the Application Form.

1.2 Name of legal entity

Note the legal name of the higher education provider. The legal name may differ from the trading name(s).

1.3 TEQSA Identification Number

Note the higher education provider's TEQSA Identification Number.

1.4 Contact officer

Provide the name of the person in the higher education provider who has the authority to liaise directly with TEQSA in relation to the application, who is familiar with the information submitted, and who is deemed to have an appropriate level of skill, knowledge and expertise necessary to provide additional timely and accurate information and/or clarification as requested.

SECTION 2 – CONDITION DETAILS

2.1 Type of condition(s)

In the table at section 2.1 of the Application Form, indicate whether each condition relates to the provider's registration, the accreditation of one or more courses of study, or other compliance matters and list the condition number of each condition.

For condition(s) related to the accreditation of one or more courses of study, list the full name of each course of study and any nested courses of study.

2.2 Other condition(s)

Indicate by marking YES or NO at section 2.2 of the Application Form whether there is any other condition, or part of any condition, that has been imposed on the provider's higher education operations and that:

- is not ongoing
- has not yet been met
- is not included in the scope of this application.

If the answer is YES, provide the following information at section 2.2 of the Application Form:

- the condition category (sustained compliance conditions, assurance conditions or restrictive conditions)
- a description of outstanding requirements imposed by each condition, or part of a condition
- expected timeframes for fully meeting the outstanding requirements.

The Glossary of Terms contains definitions of the condition categories.

SECTION 3 – REVOCATION OF CONDITION(S)

3.1 Summary of condition(s)

In the table at section 3.1 of the Application Form, describe each condition, or part of a condition, to which this application for revocation refers and note the condition number and the date each condition was imposed.

 **Attach** documentation detailing each condition to which this application for revocation refers.

Examples of documentation include reports, letters, or statements of reasons issued by TEQSA.

3.2 Rationale for Revocation

TEQSA requires a brief explanation of the rationale for seeking revocation of each condition and the likely impact that revocation will have on the provider's ongoing compliance with the Threshold Standards.

Reasons could include that the condition(s) have been fully met, or that the condition(s) are no longer applicable due to changed circumstances, such as in the case of cessation of a course of study.

3.3 Evidence to support revocation

TEQSA requires evidence to justify why the condition(s) should be revoked.

If an application for revocation is based on the condition(s) being fully met, TEQSA requires information about the actions taken to meet each condition, as well as evidence to demonstrate that each condition has been fully met.

If the application for revocation is based on the condition(s) being no longer applicable, TEQSA requires information about why each condition is no longer applicable, and any evidence about the circumstances leading to the condition(s) no longer being applicable.

 **Attach** evidence to support revocation of each condition.

Evidence may include documentation to demonstrate that the provider has fully met each condition, or documentation that outlines the changed circumstances leading to the condition(s) no longer being applicable.

SECTION 4 – VARIATION TO CONDITION(S)

4.1 Summary of condition(s)

In the table at section 4.1 of the Application Form, describe each condition, or part of a condition, to which this application for variation refers, and note the condition number the condition number and the date each condition was imposed.

 **Attach** documentation detailing each condition to which this application for variation refers.

Examples of documentation include reports, letters, or statements of reasons issued by TEQSA.

4.2 Description of variation(s) sought

In the table at section 4.2 of the Application Form, TEQSA requires a description of the current condition(s) or part of a condition as well as the variation(s) proposed for each condition, or part of a condition.

4.3 Rationale for request for variation(s)

TEQSA requires the reasons for which variation is being sought, including evidence to justify why each variation should be granted, and details of the likely impact that the variation will have on the provider's ongoing compliance with the Threshold Standards.

 **Attach**, as available, evidence to support the requested variation(s).

ABBREVIATIONS AND ACRONYMS

AQF	Australian Qualifications Framework
ASQA	Australian Skills Quality Authority
Cwlth	Commonwealth
DEEWR	Department of Education, Employment and Workplace Relations (see also DIISRTE)
DIISRTE	Department of Industry, Innovation, Science, Research and Tertiary Education (see also DEEWR)
HE	Higher Education
TEQSA	Tertiary Education Quality and Standards Agency
TEQSA Act	<i>Tertiary Education Quality and Standards Agency Act 2011</i>
url	Uniform Resource Locator

GLOSSARY OF TERMS

This glossary is provided for the purpose of the Application Form – Application for Variation or Revocation of a Condition. The glossary is based on a range of sources, including the TEQSA Act and the Australian Qualifications Framework.

Conditions:

- **Assurance conditions** are those that are required to ensure that the provider meets key commitments given in an application or through another process that will ensure that it meets the Threshold Standards.
- **Restrictive conditions** are those that limit the scope of a provider's higher education operations, such as a requirement that no new students be enrolled in a course as TEQSA is not satisfied that the provider meets or will meet the Threshold Standards. Such a condition could be applied to allow providers to teach out a course, without new enrolments.
- **Sustained compliance conditions** are intended to ensure the provider's ability to continue to meet the Threshold Standards where there is a concern over the provider's capacity to sustain continuous compliance over a period of registration or course accreditation. While the Threshold Standards have been assessed as being met, the assessment will have revealed a concern over the provider's ability to sustain continuous compliance with one or more of the Standards.

Course of study – means:

- a single course leading to an Australian higher education award, or
- a course recognised by the higher education provider at which the course is undertaken as a combined or double course leading to one or more Australian higher education awards, or
- a single course leading to an overseas higher education award, or
- a course recognised by the higher education provider at which the course is undertaken as a combined or double course leading to one or more overseas higher education awards.

Nested courses – courses of study leading to higher education awards that include articulation arrangements from a lower level higher education award into a higher level higher education award to enable multiple entry and exit points. Examples of nested awards include the Graduate Certificate/Graduate Diploma/Masters Degree pathway, the Diploma/Advanced Diploma/Associate Degree/Bachelor Degree pathway, and the Associate Degree/Bachelor Degree pathway.

Provider Category Standards – means the Provider Category Standards made under paragraph 58(1)(b) of the *Tertiary Education Quality and Standards Agency Act 2011*.

Provider Course Accreditation Standards – means the Provider Course Accreditation Standards made under paragraph 58(1)(c) of the *Tertiary Education Quality and Standards Agency Act 2011*.

Provider Registration Standards – means the Provider Registration Standards made under paragraph 58(1)(a) of the *Tertiary Education Quality and Standards Agency Act 2011*.

Qualification Standards – means the Qualification Standards made under paragraph 58(1)(d) of the *Tertiary Education Quality and Standards Agency Act 2011*.

Threshold Standards – means:

- a. the Provider Standards, which are:
 - The Provider Registration Standards; and
 - The Provider Category Standards; and
 - The Provider Course Accreditation Standards;
- b. The Qualification Standards.