

Media release

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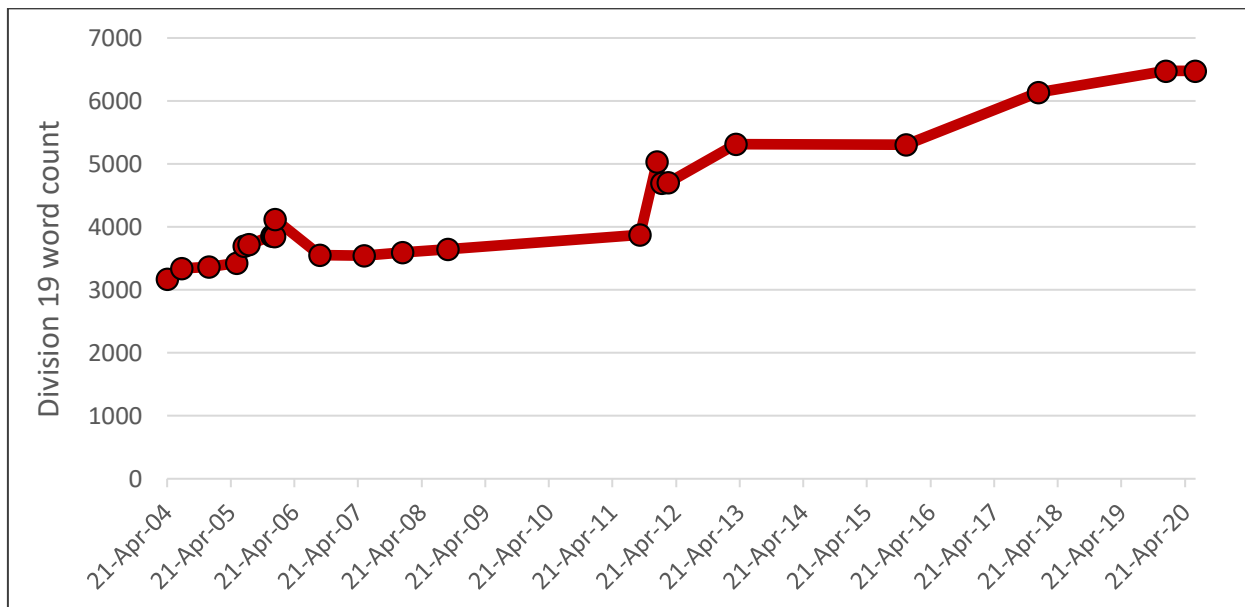
Higher education red tape has doubled since 2004

“Quality and accountability” regulations for Government supported higher education providers have more than doubled in volume since 2004 and will grow even further if the Job-Ready Graduates Bill passes through Parliament next week without amendments, the Innovative Research Universities (IRU) group has warned.

Division 19 of the [Higher Education Support Act](#) (HESA), a core section of higher education legislation that covers provider standards such as financial viability and compliance, has grown in size from 3,173 words (13 pages) in 2004 to 6,478 words (27 pages) in 2020, according to an analysis by the IRU.

This is all additional to TEQSA’s scrutiny of all providers, including for universities.

Chart: The growing size of HESA Division 19



Source: IRU analysis of Higher Education Support Act over time

Universities are exempt from some of the Division 19 legislation, with much of it until now targeted at other higher education providers.

But universities will be subject to the full set of regulations if the Government’s Job-Ready Graduates Bill is approved by Parliament next week – even though many of the rules have little practical appliance to university operations, or that of most other higher education providers.

iru.edu.au

Schedule 4 of the Job-Ready Graduates Bill extends to the university sector a large set of detailed requirements designed to prevent the negative marketing behaviours of some VET providers spreading to higher education. It is not clear the provisions have ever been used.

The IRU supports government regulation around provider standards but is concerned that many of the new rules for universities will lead to additional red tape with little or no public benefit.

“The original Higher Education Support Act 2003 was an example of a Coalition Government’s commitment to balance in regulation and red tape,” the IRU has said in its recent submission to the Senate inquiry into the Job-Ready Graduates Bill.

“It carefully calibrated the necessary requirements to protect the Commonwealth and students with universities’ capacity to undertake education and research to the best outcomes possible.

However, the IRU has pointed out that the proposed new rules are unnecessary and badly targeted:

“Schedule 4 of the Bill, the ‘student protection’ measures, is not related to the Job-Ready Graduates Package. Its focus on the quality and accountability arrangements would fit better with the *Higher Education Legislation Amendment (Provider Category Standards and Other Measures) Bill 2020* also before the Federal Parliament,” the IRU said in its submission.

The IRU has undertaken a word-count analysis of HESA over time, since its original version in 2004, to highlight the growing regulation in the higher education sector.

The IRU is calling on senators to remove Schedule 4 of the Job-Ready Graduates Bill in its entirety.

Appendix: The needless burden on universities

Schedule 4 of the Job-Ready Graduates Bill would extend the provisions set out in the table to Table A, B, C providers (which includes universities).

Section of HESA	What it covers	Context and position
19-10, 19-12	Long-standing financial statements requirement amended to allow Guidelines to define detail.	The requirements in the Guidelines are not relevant to universities which the State and Commonwealth Auditors audit. Not necessary for universities
19-36	Not to indicate that HELP is a not a loan or need not be repaid	No sign universities have ever done this. Not necessary for universities
19-36E	Not complete a request for Commonwealth support	The additional provisions tie this insertion to CSP eligibility. Universities would only assist an applicant to the extent necessary to ensure they can make the request. 19-36A to E not included – specific marketing rules There is no need for it.

19-42	Assess a student is suitable before enrolling in a unit	Universities adhere to the general requirement to select students who are capable of the course. With TEQSA monitoring the relevant standards. No need to apply to universities
19-45	Adds 'civil penalty: 60 points' to existing student grievance procedures if procedures not followed	Not necessary for universities
19-70	Long-standing requirement to provide information. Adds civil penalty	Not necessary for universities
19-71 to 19-73	To cooperate with TEQSA, To keep records as specified To publish information as specified	No need but not objectionable
19-75, 19-77, 19-78, 19-80, 19-82, 19-95	Adds Civil penalties to raft of requirements to notify of events and comply with orders	Not necessary for universities
104-1	Links the general FEE-HELP requirements to the new 104-1A that introduced the 50% pass test for access to FEE-HELP. Adds other requirements in the weeds of provider misbehaviour	Tied to student pass rate proposal. Other elements not necessary for universities.
104-43, 104-44	Requirements to recredit a student's FEE-HELP balance where the student has used FEE-HELP but is not genuine or the provider helped with the application for support.	Ties to need for 'genuine student test' and 19-36E. The substantive questions are the issue not the recrediting rules.
169-17	Allows Guidelines to limit provider rules on students who withdraw, such as a fee for withdrawal and conditions on re-enrolment	Any evidence of issue with universities, which cannot levy a fee on CSP students? Not necessary for universities
169-25, 174-5	Further civil penalties for <ul style="list-style-type: none"> • not setting census dates and EFTSL levels • correct use of electronic communications 	No evidence of university problems Not necessary for universities

The Schedule then sets out further substantive additions to requirements of universities:

- Extends the compliance assurance requirement 19-80 to Table A providers so that the Minister can require an audit of a provider against the various quality and accountability provisions of the Act. Reverses original exclusion of Table A providers in the 2003 Act (Item 9);
- Definition of CSP includes that the Secretary can determine that a student is not a genuine student. The decision to be taken with regard to the Provider Guidelines, no further elucidation (items 11, 26);
- The provider must assess the student as academically suitable (item 13);
- An enrolment cannot lead to being enrolled in the equivalent of more than two EFTSL and receive any Commonwealth support for the student (item 14 for CSP and HECS-HELP; Items 27-28 for FEE-HELP);
- The provider is not to have completed any part of the request for Commonwealth assistance (item 15);
- A student cannot be a Commonwealth supported student or access FEE-HELP if the student has not passed at least 50% of units in the course – of eight or more units for a bachelor degree and four or more of any other (Items 40 to 42).

This is a major extension of regulation over universities, with a limited evidence base for the need.

IRU solution

Schedule 4 of the Higher Education Support Act (*Job-Ready Graduates and Supporting Regional and Remote Students*) Bill 2020 should be stripped back:

1. to give the Department Secretary powers to determine that a student is not genuine, with the Department responsible for proving that case. This is Items 11 and 26; and
2. to insert clear statements of application for each provision where they do not apply generally to all approved higher education providers.

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About the IRU

The IRU is a network of seven comprehensive universities committed to inclusive excellence in teaching and research in Australia.

Its members are Charles Darwin University, Flinders University, Griffith University, James Cook University, La Trobe University, Murdoch University and Western Sydney University.