

Overview - Draft legislation to tackle contract cheating

The Australian Government intends to enact a law, to make it an offence to provide or advertise academic cheating services. The legislation is aimed at those who provide cheating services, and not at students who might use such services. Students who cheat remain subject to their institutions' own academic integrity policies, processes and sanctions and any consequences that may flow from those.

The new law will be made as an amendment to the *Tertiary Education Quality and Standards Agency (TEQSA) Act 2011*. It follows advice from the Higher Education Standards Panel and draws on the approach taken by New Zealand, adapted to Australia's constitutional and other circumstances.

An exposure draft Bill has been released for public comment: the Tertiary Education Quality and Standards Agency Amendment (Prohibiting Academic Cheating Services) Bill 2019.

Outcomes sought from the legislation are to:

- i. make it an offence for any person to provide or advertise academic cheating services related to the delivery of higher education in Australia, whether the service is offered from within Australia or from overseas
- ii. provide for significant financial and custodial penalties where an offence is proven
- iii. appoint TEQSA, as the regulator responsible for administering the law, with their role to include:
 - a. education about the effect of the laws
 - b. monitoring, intelligence gathering and information sharing on related activity, including capacity to seek Federal Court injunctions to prevent access to domestic and international websites promoting cheating services
 - c. investigation and prosecution of identified offenders, along with capacity to support institutions and law enforcement agencies to investigate and/or prosecute suspected offences.

New offences to provide or advertise cheating services

Proposed new section 114A of the TEQSA Act would make it an offence to provide academic cheating services, where the assignment, work or examination is a required part of a course of study. Cheating services include:

- completing an assignment or other work for a student
- providing any part of a piece of work or assignment
- providing answers for an examination
- sitting an examination

Legitimate assistance provided to a student with special needs – e.g. a scribe assisting a student with disability undertake an exam – will not be affected in any way.

Proposed new section 114B would make it an offence to advertise such services. This will apply to the person initiating or paying for the advert. It will also apply to the publisher of an advertisement, if they could reasonably have been expected to know the service being advertised is prohibited.

Both new types of offences will attract criminal penalties of up to two years imprisonment or 500 penalty units (currently \$105,000) and/or Civil penalties of up to 1,000 penalty units (currently \$210,000).

Penalties outlined in the draft Bill are intentionally severe, to provide visible and meaningful deterrence to the provision of or access to commercial and other organised cheating; and secondarily to provide a more streamlined and efficient mechanism for institutions to address detected cheating activity with clearer avenues of support from regulators and law enforcement.

New role for TEQSA

TEQSA was allocated additional funding in the 2018-19 Budget to take on a new role to support this legislation. It will have capacity to provide support to higher education providers to address contract cheating, including through the development of education materials, information sharing, intelligence gathering and, if necessary, to support prosecutions under the new national law.

Tackling cheating websites

Proposed new section 127A of the TEQSA Act would give TEQSA the power to seek Federal Court injunctions to prevent access to domestic and international websites promoting cheating services. This will be an important avenue to reduce the visibility and ready access to cheating services offered online, including from overseas.

Working with states and territories

The legislation relies on the Australian Government's constitutional power with respect to communication, corporations, trade and commerce, foreign nationals, students and external affairs. The Commonwealth is working with the states and territories to ensure any gaps in the coverage of the Bill's provisions can be minimised.

Comments sought

Comments on the draft legislation are sought by 28 June 2019 and can be sent via email to highered@education.gov.au