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**NATIONAL TERTIARY EDUCATION UNION  
SUBMISSION TO THE INQUIRY INTO THE *HIGHER  
EDUCATION LEGISLATION AMENDMENT (2007  
MEASURES NO.1) BILL 2007***

## **1. Introduction**

The NTEU represents the professional and industrial interests of over 25,000 staff employed at Australian universities. Our membership is composed of academic, research, administrative, technical and other general staff employed at Australian universities.

NTEU welcomes the opportunity to provide comments in relation to the *Higher Education Legislation Amendment (2007 Measures No.1) Bill 2007*, (hereafter referred to as the HELA Bill). The Union has a number of concerns about the Bill, particularly in regard to the provisions relating to the *National Protocols for Higher Education Approval Processes (National Protocols)* and the implementation of the Research Quality Framework (RQF).

While the Union is aware that this Bill does not go to the detail of these policies, but rather introduces a number of technical and operational amendments in order to implement the policies, we are concerned it is being rushed through before due consideration has been given to the configuration and implementation of these policies.

This submission will outline the Union's concerns about the risks of introducing legislation which allows the introduction of policy instruments before all of the details about the policies are known. The submission makes a number of recommendations that seek to postpone the legislation until further detail and clarification about these policies are known, or at a very minimum, the Government provides assurances that there will be appropriate oversight of the approvals process for each of these policy instruments, as well a commitment to a structured program of monitoring the impact of the legislation.

NTEU would welcome the opportunity to provide additional information to the inquiry in person if required.

## **2. National Protocols for Higher Education Approval Processes**

The *National Protocols* are an essential part of Australia's overall quality framework for higher education. The increasing number and complexity of accreditation demands and the growing economic, social and cultural importance of our higher education sector make a clear and rigorous system of accreditation of higher education providers vital.

NTEU has a number of concerns about the changes that are set out in the revised *National Protocols*, particularly as they relate to the reduced test for the use of the term 'university'. We are concerned that these changes could reduce the standards that underpin the reputation of Australia's higher education industry. Thus, even though the amendments in relation to the accreditation and approval of higher education providers contained in the Bill are necessary for the implementation of the revised *National Protocols*, the Union believes that some of these revisions pose significant risks to Australia's higher education industry and require further consideration and monitoring.

### ***Timing of the Bill's passage***

The revised *National Protocols*, which were agreed to by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) in July 2006, are to take effect by the end of 2007. This means that the Commonwealth, as well as all States and Territories will need to amend legislation to incorporate the 2006 revisions. However, as MCEETYA are still in the process of developing the National

Guidelines that will give effect to the revised *National Protocols*, NTEU believes that no legislative amendments should be made until this process has been finalised.

The Union was recently invited to make a submission on the draft National Guidelines and recommended a number of amendments, including the need for the Guidelines to clarify the legislative arrangements for providers seeking access to a modified form of the title university.<sup>1</sup> It is therefore possible that the final version of the Guidelines could require further amendments to be made to the *Higher Education Support Act 2003 (HESA)*, and as such the Union believes that the *HELA Bill* should be held over until this process has been finalised.

### ***Maintaining Australia's reputation for the delivery of high quality higher education***

The expanded use of the title 'university' includes the introduction of 'specialist universities', which only deliver higher education awards (including Research Masters and PhDs) in one or two broad fields of study and 'university colleges', which only have to offer Research Masters or PhDs in one field of study for the first five years after establishment. The Union is concerned that rather than introducing further diversity into the sector, the use of modified forms of university title could reduce discipline breadth and depth as institutions compete with each other on a narrow range of 'profitable' courses. This could have a number of negative implications for the national and international reputation of Australia's universities and the quality of higher education they deliver.

'Specialist' universities in particular will be able to operate on the basis of substantial cost efficiencies as they are likely to offer only the most profitable teaching fields, potentially undermining the revenue basis of established universities in these areas. Such rivalry could lead to the break-up of some existing universities as profitable disciplines or faculties split away to set up their own operations. Focusing course content around market concerns for demand, rather than academic integrity and merit could significantly undermine the quality of education that is being delivered at Australia's universities.

The link between teaching and research across various fields of academic endeavour is essential to the development of high quality curricula and innovation. The Union is concerned that reducing discipline breadth could also lead to a narrowing of research capacity across the sector, as well as undermine quality, through diminishing the capacity for inter-disciplinary collaboration. Discipline breadth enables universities to provide a range of inter-disciplinary links that create the necessary synergies between research, teaching and learning that is required in the production and advancement of knowledge. It is this characteristic that distinguishes universities from other higher education providers.

The use of modified forms of university title could also create confusion amongst both international and domestic students about the type of education that they are receiving. The maintenance of a clearly defined standard with use of university title is what has built Australia's international reputation for the delivery of high quality education. The introduction of different types of universities, including overseas universities and their awards, accredited in their country of origin but being offered within Australia, risks confusing students about exactly what type of education they are enrolling in and the nature and quality of our system.

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<sup>1</sup> NTEU Submission to Dr Sue Johnston, Phillips KPA Consulting, Re: Draft National Guidelines, March 2007.

While it is necessary for the *National Protocols* to be incorporated into *HESA*, as well as into State and Territory legislation, it is essential that their incorporation does not undermine the very purpose that they have been devised to fulfil, that is to protect and maintain the quality and standards of Australia's higher education industry. The Union believes that further consideration should be given as to how these risks can be minimised through integrating appropriate safeguards and monitoring processes into the legislation.

### ***Public Accountability and Transparency***

NTEU welcomes the introduction of the provision that public comment will be invited on proposals to establish an Australian university, with the provision of relevant information provided on a public website.<sup>2</sup> However, the Union is concerned that this provision has not been extended to applications by offshore universities seeking to operate under their country of origin title in Australia. Public assurance of the quality of our higher education system is critical to maintaining Australia's domestic and international reputation for the delivery of high quality higher education. Even though overseas providers are accredited through their country of origin's systems, the fact that they are seeking to operate in Australia means that the Australian public should be fully informed about their proposed operations and be given the same opportunity to comment as for Australian applicants seeking to operate as a university.

NTEU believes that the principle of public consultation should be extended to include applications by offshore universities, where these involve the establishment of a stand alone campus able to use their country of origin title, as set out in the *Guidelines for overseas providers seeking to operate in Australia*.

### **Recommendation 1**

**That no legislative amendments relating to the *National Protocols for Higher Education Approval Processes* be made until the *Guidelines* which will give effect to the revised *National Protocols* have been finalised.**

### **3. Research Quality Framework**

The NTEU has been supportive of the overall objectives of the RQF which are to ensure that universities and other publicly funded research agencies use public research funding to encourage and support high quality/high impact research. We have a number of specific concerns about the introduction of components of the *HELA Bill 2000*, however, which provides funding to assist with the implementation of the first cycle of the RQF, as it currently stands. Our major concerns include:

- the introduction of this legislation before much of the critical detail about the final model is known,
- lack of adequate funding to compensate universities for the real costs associated with the introduction of the RQF, thus diverting scarce resources from other essential core activities such as teaching and research, and
- risks to the international reputation of Australian universities and the professional and industrial rights of their staff.

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<sup>2</sup> JCHE, *National Guidelines for Higher Education Approval Processes: Guidelines for establishing Australian Universities*, 10.4, section B, p.6

### ***Ongoing lack of detail about key aspects of the RQF***

In November 2006, the Federal Education Minister announced that the Government would proceed with the RQF. It is understood that the results of the quality and impact assessments will be used to distribute in the order of \$600 million of public research funding to universities. However, to date there is no detail as to exactly how the assessment results will translate into funding outcomes. The Government is yet to announce details such as:

- the proportion of funding to be allocated on the basis of quality ratings or impact ratings,
- the funding weights attached to different quality and impact ratings,
- the funding weights to be used for quality/impact ratings and the volume of research submitted, and
- the relative cost weightings that will be attached to different disciplines.

These details are critical because they have the potential to result in a considerable redistribution of the public research funds allocated across the higher education sector. Without knowing the details, universities do not know whether it is in their best interests (in terms of funding outcomes), to be highly selective in the choice of which research groups and staff to include in evidence portfolios or whether they should maximise the number of research groups and staff included.

In addition to a lack of critical funding information, much of the detail in relation to the actual assessment process to be used by the various expert assessment panels is yet to be released. NTEU has grave doubts as to whether the timeframe allocated to the panels to assess and rate evidence portfolios for research quality and impact (2 to 3 months) allows sufficient time for their to be genuine peer review of the materials submitted. The Union is concerned that this timeframe will force assessment panels to rely heavily on research metrics, which would be highly problematic especially in the arts and humanities.

### **Recommendation 2**

**That no legislative amendments are made to provide funding for the implementation of the Research Quality Framework until all of the details of the funding and assessment process have been finalised and agreed to by the sector.**

### ***Insufficient Funding***

The essence of RQF amendments included in *HELA Bill*, relate to providing funding for the implementation of the RQF. The Government has announced a total of \$87 million in funding to help implement the RQF over a three year period 2007 – 2009.

NTEU believes that this amount is insufficient to compensate universities for the real costs they will face in complying with the RQF. This concern is also raised in the Productivity Commission's *Report into Public Support for Science and Innovation*, which questions whether the overall benefits that are likely to flow from the implementation of the RQF will outweigh the considerable costs associated with its introduction. It concluded that;

*experience suggests that the benefits would have to be considerable to offset the significant administrative and compliance costs.<sup>3</sup>*

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<sup>3</sup> Productivity Commission Research Report (9 March 2007) *Public Support for Science and Innovation* p 501

### **Recommendation 3**

**That the implementation of the Research Quality Framework be delayed until the most cost effective ways of assessing research quality and impact are fully investigated and analysed to determine whether they would deliver net benefits to Australian society.**

It needs to be noted that less than half (\$41.9 million) of \$87 million announced by the Minister is being distributed to the higher education sector to help it implement the RQF over the next three years. The \$41.9m being provided to universities is comprised of:

- \$16.4 million for the *Implementation Assistance Programme* to assist universities in meeting the costs of implementing the new requirements for data gathering; and
- \$25.5 million for the *Australian Scheme for Higher Education Repositories* programme to assist with the establishment of university digital data storage systems that will allow research outputs to be submitted for RQF assessment.

The remaining \$45 million is essentially being used to support the bureaucratic infrastructure which will be necessary to allow DEST to implement the RQF assessment process and highlights the excessive administrative costs associated with the proposed assessment process.

In other words, of the total \$87 million in financial support being provided to help implement the RQF, only \$16.4 million, or less than 20%, is being made available to universities to help them meet the general administrative costs associated with implementing the RQF.

This \$16.4 million falls well short of other estimates of the compliance costs that universities will face. The Australian Vice Chancellors' Committee (AVCC) estimates compliance costs for universities to be as much as \$40 million<sup>4</sup>. NTEU's own estimates of university compliance costs range from approximately \$25m to \$60m, depending on the proportion of staff who are included in evidence portfolios to be submitted to expert panels<sup>5</sup>.

The Union is concerned that failing to provide universities with sufficient funding to meet the compliance costs of the RQF will divert resources away from universities' core activities of teaching, research and community service to comply with the administrative requirements of the RQF.

### **Recommendation 4**

**That funding made available to universities through the *Implementation Assistance Programme* be increased to a minimum of \$40 million so that it provides more realistic compensation to universities for the costs they will incur in implementing the RQF.**

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<sup>4</sup> AVCC Response to the Productivity Commission Draft Research Report: *Public Support for Science & Innovation*, p.7, December 2006

<sup>5</sup> For more detail of estimates please refer to NTEU Submission (2006) *NTEU Comments to RQF Development Advisory Group* (<http://www.nteu.org.au/policy/submissions/submissions06/rqfjuly06>)

***Risks to the international reputation of Australian universities and the professional and industrial rights of its staff***

While the NTEU strongly supports the overall objectives of the RQF, we are concerned that the *Recommended Model* contains a number of elements that present unacceptable risks to the international reputation of Australian universities and the professional and industrial rights of staff employed within the sector. While these concerns go beyond the direct ambit of the issues associated with the *HELA Bill 2007*, the NTEU believes that they are relevant to the overall consideration of whether the introduction of the RQF should be delayed until some of these issues have been more fully considered.

These issues include:

- How to best incorporate the training and research outputs of higher degree research students into the RQF, which at this stage have been explicitly excluded on the basis that it is simply too hard.
- Whether a specific expert panel for Indigenous research or multi/cross-disciplinary research should be established.
- A fairer process for including the research of early career research staff, Indigenous researchers and staff whom have experienced career breaks, to ensure that they are not discriminated against either in the assessment process or in future research careers in the higher education sector.
- How the decision to allow universities to select which research groups and staff are to be included in the RQF might result in an artificial distinction between teaching and research staff and therefore threaten the all important nexus between teaching and research.
- The development of an internationally recognised and tested method of assessing research 'impact'.