



AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) BILL 2020

FACT SHEET 4 – AUSTRALIAN UNIVERSITIESⁱ

Australia's Foreign Relations (State and Territory Arrangements) Bill 2020 (the Bill) fosters a systematic and consistent approach to foreign engagement across all levels of Australian government. It creates a scheme to ensure that arrangements between State or Territory governments and foreign government entities do not adversely affect Australia's foreign relations and are not inconsistent with Australia's foreign policy.

This Fact Sheet should be read with 'Fact Sheet 1–Overview' and 'Fact Sheet 5 – Exemptions'

In what circumstances are Australian universities covered by the scheme?

The scheme only applies to **Australian public universities** when they enter an arrangement with a foreign government, or with a foreign university that does not have institutional autonomy.

The scheme does not apply to Australian private universities. **Australian private universities are encouraged to be transparent** about arrangements with foreign entities by publishing information about those arrangements on their website. Australian private universities can also seek advice from the Department of Foreign Affairs and Trade (DFAT) on the foreign policy implications of potential arrangements before entering them.

What counts as a 'foreign government'?

Under the Bill, a foreign government includes a foreign national or sub-national government (including a department, agency or other public authority of that government).

Some foreign tertiary education institutions, such as government military academies, would be considered part of the foreign government.

When are university-to-university arrangements covered?

A **university-to-university arrangement** is not within scope unless the arrangement is between an Australian public university and:


- a foreign tertiary education institution that is a part of a foreign government (eg, a government military academy), or
- a foreign university that does not have institutional autonomy because it is substantially under the control of a foreign government.

When would a foreign university not have institutional autonomy?

A foreign university does not have institutional autonomy when it is substantially under the control of a foreign government.

A foreign university is taken to be substantially under the control of a foreign government only if one or more of the following applies:

- a **majority of the members of the university's governing body** are required, by a law or the university's governing documents, to be **members or part of the political party** that forms the foreign government;
- **education** provided or **research** conducted at the university is required, by a law or the university's governing documents, to **adhere to, or be in service of, political principles or political doctrines** of the foreign government or the political party that forms the foreign government; and/or

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- the **university's academic staff** are required, by a law or the university's governing documents, to **adhere to, or be in service of, political principles or doctrines** of the foreign government or the political party that forms the foreign government, in their teaching, research, discussions, publications or public commentary.

The vast majority of foreign universities do not meet these criteria. Universities with similar levels of institutional autonomy to Australian universities (e.g. Members of the Russell Group of universities in the United Kingdom) do not meet these criteria. Accordingly, arrangements between these universities and Australian public universities do not need to be notified.

What about minor logistical or administrative arrangements?

The Minister for Foreign Affairs may exempt arrangements through rules.

The Minister proposes to exempt arrangements from being notified where they deal solely with minor administrative or logistical matters. This is the case, for example, where an Australian public university enters an arrangement with a foreign government or a foreign university that does not have institutional autonomy but the arrangement deals only with flights, accommodation, submission of paperwork, visa applications, or the timing of conference sessions.

Similarly, where an Australian public university varies an existing arrangement without altering its substance (e.g. by changing the number of students involved in a student exchange), that variation will be exempted from the requirement to notify.

Exemptions will only take effect if and when the Bill is passed by Parliament, provisions enabling the Minister to make rules have commenced, and the Minister has made the relevant rules. Further detail is in **Fact Sheet 5**.

What does the scheme do?

An Australian public university is only required to notify the Minister (via DFAT) about arrangements within the scope of the scheme. There is no requirement to seek approval for these arrangements.

The scheme applies to prospective arrangements, as well as arrangements already in operation.

Further detail is in **Fact Sheet 1**.

How will I comply with obligations under the scheme?

DFAT will be responsible for administering the scheme. A unit has been established in DFAT to support this. An IT system is also being put in place to enable State/Territory entities, including Australian public universities, to make notifications under the scheme.

Where can I get further information?

Contact the Department of Foreign Affairs and Trade at foreignarrangements@dfat.gov.au.

ⁱ * This FACT SHEET sets out some of the requirements of the Australia's Foreign Relations (State and Territory Arrangements) Bill 2020. It is based on the Bill as introduced into Parliament on 3 September 2020 and amendments introduced on 10 November 2020. It is not intended to be comprehensive and should not be relied on as a definitive interpretation of the Bill. It is also not intended as legal advice. Readers should rely on the substantive provisions of any subsequent Act enacted by Parliament, and any applicable rules, in assessing their obligations and seek independent legal advice.