

Overseas Students (Refunds) (General) Regulations (Amendment) 1992 No. 425

EXPLANATORY STATEMENT

STATUTORY RULES 1992 No. 425

Issued by the Authority of the Minister for Employment, Education and Training

Overseas Students (Refunds) Act 1990

Overseas Students (Refunds) (People's Republic of China) Regulations (Amendment)

Overseas Students (Refunds) (General) Regulations (Amendment)

Section 11 of the Overseas Students (Refunds) Act 1990 (the Act) provides that the Governor-General may make Regulations for the purposes of the Act and in particular to facilitate the Commonwealth in refunding fees prepaid by overseas students who were unable to undertake or complete course of study in Australia.

The purpose of these Regulations is to amend the procedures prescribed for the purposes of sections 6 and 7 of the Act and to ensure that those procedures apply to all students who have received refunds for the Commonwealth.

The Regulations also detail what constitutes prima facie evidence that a person was, at a relevant time, an overseas student as defined by section 3 of the Act.

The students had paid fees in advance to educational institutions, but the institutions were either unable or unwilling to reimburse the students when they were unable to obtain a visa for entry to Australia. The Government decided in 1990 to refund the students and recover the assigned debt from the institutions concerned.

The proposed Regulations are to commence upon gazettal with the exception of Regulation 3 which is to commence on the date on which the Principal Regulations commenced (Overseas Students (Refunds) (People's Republic of China) Regulations 17 September 1991; Overseas Students (Refunds) (General) Regulations 7 February 1992) and, in the case of the Overseas Students (Refunds) (People's Republic of China) Regulations (Amendment), Regulation 5 which is taken to have commenced on 28 December 1990.

The proposed retrospective Regulations will not affect the rights of any person in a manner prejudicial to that person, nor will they impose any liability on such a person. They are, therefore, in accord with sub-section 48 (2) of the Acts Interpretation Act 1901.

The proposed Regulations commenced on gazettal, with the exception of Regulation 3, which is to commence on the date of the gazettal of the Principal Regulations and, in the case of the Overseas Students (Refunds)(People's Republic of China) Regulations (Amendment), Regulation 5, which is taken to have commenced on 28 December 1990.