



Education Services for Overseas Students Amendment Regulations 2007 (No. 1)¹

Select Legislative Instrument 2007 No. 182

I, PROFESSOR MARIE BASHIR, AC, CVO, Deputy for the Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Education Services for Overseas Students Act 2000*.

Dated 28 June 2007

MARIE BASHIR
Deputy for the Governor-General
By Her Excellency's Command

JULIE BISHOP
Minister for Education, Science and Training

1 Name of Regulations

These Regulations are the *Education Services for Overseas Students Amendment Regulations 2007 (No. 1)*.

2 Commencement

These Regulations commence on 1 July 2007.

3 Amendment of *Education Services for Overseas Students Regulations 2001*

Schedule 1 amends the *Education Services for Overseas Students Regulations 2001*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 1.03, definition of *student visa*

substitute

student visa means a visa described in the *Migration Regulations 1994* as a Subclass 560, 562, 563, 570, 571, 572, 573, 574, 575 or 576 visa, whenever granted, other than a visa granted to:

- (a) a person who satisfies the secondary criteria, but not the primary criteria, under those Regulations for the grant of the visa; or
- (b) an exchange student or AusAID student within the meaning of those Regulations; or
- (c) an overseas student who has been approved by the Minister for Defence to undertake a course of study or training under a scholarship scheme or training program approved by the Minister for Defence; or
- (d) an overseas student who has been approved under another scholarship scheme, or an exchange scheme, sponsored by the Commonwealth to undertake a course of study or training in Australia.

[2] Regulation 2.01

substitute

2.01 Information to be entered on the Register

- (1) For paragraph 10 (4) (d) of the Act, the following information must be entered on the Register for each approved provider registered to provide a course or courses for a State:
 - (a) the address of the provider's place of business;
 - (b) if the provider is not an individual — the address of the provider's registered office;
 - (c) the provider's postal address (if different from the address mentioned in paragraph (a) or (b));
 - (d) the provider's telephone number, facsimile number and e-mail address (if any);
 - (e) the provider's Australian Business Number or Australian Company Number;
 - (f) the provider's trading name or names;
 - (g) if the designated authority for the State has specified a period of approval for the provider to provide the course or courses to overseas students — the first and last days of that period;
 - (h) the maximum number of overseas students, approved by the designated authority, to whom the provider may provide the course or courses.
- (2) For paragraph 10 (4) (d) of the Act, the following information must be entered on the Register for each course that the provider mentioned in subregulation (1) is registered to provide:
 - (a) the duration, level and field of study of the course;
 - (b) the estimated total amount payable by a student for the course;
 - (c) if the course duration is 2 or more whole years — the estimated annual amount payable by a student for the course;
 - (d) the location or locations where the course will be provided, including:

- (i) the address of each location; and
 - (ii) the telephone number, facsimile number and e-mail address (if any) for each location; and
 - (iii) the maximum number of students to whom the provider may provide the course in each location;
- (e) whether the course is provided:
- (i) by the owner-operator of the provider mentioned in subregulation (1); or
 - (ii) under an arrangement with another registered provider; or
 - (iii) under an arrangement with a non-registered provider.

Examples of levels of study of courses for paragraph (a)

- 1 Primary.
- 2 Secondary.
- 3 Diploma.
- 4 Bachelor degree.
- 5 Masters coursework.
- 6 PhD.
- 7 Non award.
- 8 Foundation studies.

Examples of fields of study of courses for paragraph (a)

- 1 Business administration.
- 2 English language study.
- 3 Visual and performing arts.
- 4 Education.

[3] After subregulation 3.03 (2)

insert

- (3) For paragraph 19 (1) (f) of the Act, the following are prescribed matters relating to an accepted student whose studies have been deferred or suspended:
- (a) the proposed duration of any deferment of studies;
 - (b) the proposed duration of any suspension of studies.

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- (4) For paragraph 19 (1) (f) of the Act, the following are prescribed matters relating to an accepted student whose studies have been suspended or deferred by the provider or at the request of the student:
- (a) any change to the proposed end date of the deferment of studies;
 - (b) any change to the proposed end date of the suspension of studies.

[4] After regulation 3.03

insert

3.03A Breach by an accepted student of a student visa condition

For subsection 19 (2) of the Act, a registered provider must give the Secretary particulars of any breach by an accepted student of a student visa condition in the following table:

Item	Student visa condition
1	8202

Note See Schedule 8 to the *Migration Regulations 1994*.

[5] Paragraph 3.18 (1) (b)

substitute

- (b) a provider who satisfies:
 - (i) subregulation (2) or (2A) and subregulation (2B); or
 - (ii) subregulation (3) or (3A) and subregulation (3B).

[6] Subregulation 3.18 (2) and (3)

substitute

- (2) A provider satisfies this subregulation if:
 - (a) before the initial registration of all courses provided by the provider, the provider gives to the Secretary a statutory declaration to the effect that it will:

- (i) notify intending overseas students that any tuition fees payable for a student to undertake a full course are payable after the student has completed the full course; and
 - (ii) enter into tuition payment in arrears agreements with students; and
 - (b) the provider acts in accordance with tuition payment in arrears agreements entered into with students.
- (2A) A provider satisfies this subregulation if:
 - (a) before the provider advertises that it will accept payment in arrears for an existing course provided by the provider, the provider gives to the Secretary a statutory declaration to the effect that it will:
 - (i) notify intending overseas students that any tuition fees payable for a student to undertake the course are payable after the student has completed the full course; and
 - (ii) enter into tuition payment in arrears agreements with students; and
 - (b) the provider acts in accordance with tuition payment in arrears agreements entered into with students.
- (2B) A provider satisfies this subregulation if:
 - (a) the provider gives to the Secretary a statutory declaration, within 2 months of the end of each calendar year, confirming that the matters in the statutory declaration in subregulation (2) or (2A) have occurred during the year; and
 - (b) the statutory declaration is accompanied by copies of the signed tuition payment in arrears agreement with each accepted student of the provider for the year.
- (3) A provider satisfies this subregulation if:
 - (a) before the initial registration of all courses provided by the provider, the provider gives to the Secretary a statutory declaration to the effect that it will:
 - (i) notify intending overseas students that any tuition fees payable for a student to undertake a part of a

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- course provided by the provider are payable after the student has completed the part of the course; and
- (ii) enter into tuition payment in arrears agreements with students; and
 - (iii) have a current credit transfer agreement in place prior to the commencement of the course; and
- (b) the provider acts in accordance with tuition payment in arrears agreements with students.
- (3A) A provider satisfies this subregulation if:
- (a) before the provider advertises that it will accept payment in arrears for an existing course provided by the provider, the provider gives to the Secretary a statutory declaration to the effect that it will:
 - (i) notify intending overseas students that any tuition fees payable for a student to undertake a part of a course provided by the provider are payable after the student has completed the part of the course; and
 - (ii) enter into tuition payment in arrears agreements with students; and
 - (iii) have a current credit transfer agreement in place prior to the commencement of the course; and
 - (b) the provider acts in accordance with tuition payment in arrears agreements with students.
- (3B) A provider satisfies this subregulation if:
- (a) the provider gives to the Secretary a statutory declaration, within 2 months of the end of each calendar year, confirming that:
 - (i) the matters in the statutory declaration in subregulation (3) or (3A) have occurred during the year; and
 - (ii) the provider has a current credit transfer agreement in place, and has had for the entire year; and
 - (b) the statutory declaration is accompanied by copies of the signed tuition payment in arrears agreement with each accepted student of the provider for the year.

[7] Subregulation 4.01 (1), table*substitute*

Provision of the national code	Penalty units
Standard 15.1	10
Standard 2.1	1
Standard 3, excluding paragraphs 3.1 (d) and (e)	3
Standard 10.1	1
Standard 11.1	1
Standard 3.1 (d)	1

[8] After regulation 5.03*insert***5.04 Reduction of amount paid out of the fund under paragraph 77 (1) (b) of the Act**

For subsection 77 (1A) of the Act, the amount by which the refund is reduced is:

$$R = A \times B$$

where:

R is the amount by which the refund is reduced.

A is the amount paid by the student for the old course.

B is the reduction, expressed as a percentage, in the work required of the student in undertaking the new course, as a result of the student's work already undertaken in the old course.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.