

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 192

Education Services for Overseas Students Act 2000

Education Services for Overseas Students Amendment Regulations 2011 (No. 1)

Authority

The *Education Services for Overseas Students Act 2000* (the Act) regulates education services for overseas students.

Section 177 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 106(1) of the Act enables the regulations to provide for the Minister to give a registered provider an infringement notice requiring payment of a penalty as an alternative to prosecution for a breach of any of the offence provisions listed under subsection 106(1A) of the Act.

Purpose and operation

Part 6 of the *Education Services for Overseas Students Regulations 2001* (the Principal Regulations) were made for section 106 of the Act and set out a procedure under which a registered provider who is alleged to have committed an offence against one of the listed offence provisions may, as an alternative to having the matter dealt with by a court, dispose of the matter by payment of a monetary penalty.

The passage of the *Education Services for Overseas Students Legislation Amendment Act 2011* repealed offence provisions subsection 104(1) and section 105, and instead relocated these offences, together with new offences, under subsection 106(1A) of the Act. As a result of these amendments to the Act, the infringement notice penalty procedure under Part 6 of the Principal Regulations has been rendered inoperative owing to the repeal of the former provisions in the Act which referenced the offences to which the infringement notice penalty procedure could apply.

The proposed Regulations would amend the Principal Regulations to correct the incorrect references with the applicable offence provisions.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Commencement

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Consultation

As the matters specified by the Regulations were considered to be of a machinery nature and did not alter existing arrangements, consultation was not undertaken as it was not considered necessary or appropriate