



Education Services for Overseas Students (TPS Levies – Risk Rated Premium and Special Tuition Protection Components) Instrument 2015¹

Education Services for Overseas Students (TPS Levies) Act 2012

I, Vipin Mahajan, TPS Director, make the following instrument under sections 9 and 10 of the *Education Services for Overseas Students (TPS Levies) Act 2012*.

Dated 17 December 2015

Vipin Mahajan
TPS Director

1 Name of instrument

This instrument is the *Education Services for Overseas Students (TPS Levies – Risk Rated Premium and Special Tuition Protection Components) Instrument 2015*.

2 Commencement

This instrument commences on 31 December 2015.

3 Revocation

The *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Determination 2014* is revoked.

4 Definitions

In this instrument:

Act means the *Education Services for Overseas Students (TPS Levies) Act 2012*.

annual registration charge has the same meaning as in the *Education Services for Overseas Students Act 2000*.

entry to market charge has the same meaning as in the *Education Services for Overseas Students Act 2000*.

enrolments means the total enrolments for a registered provider calculated using the rules set out in subsections 5(3) and (4) of the *Education Services for Overseas Students (Registration Charges) Act 1997*.

growth in overseas student enrolments: see section 5.

length of operation, for a current Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) provider, means the number of years.

(a) commencing when the provider was registered, or last registered, as a CRICOS provider; and

(b) ending on 31 December 2015.

maximum overseas source country concentration: see section 6.

non-exempt provider means a registered provider of a kind that is not mentioned in section 5 of the *Education Services for Overseas Students (TPS Levies) (Levy exemptions) Determination 2012 (No. 1)*.

Note When this instrument commenced, the registered providers mentioned in that determination were Table A providers under the *Higher Education Support Act 2003*, Government schools and State or Territory VET institutions.

PRISMS has the same meaning as in the *Education Services for Overseas Students Regulations 2001*.

national registration process, for a CRICOS provider, means the process of amalgamation of all of the provider's registrations into one registration, as explained in item 96 of Schedule 2 to the *Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012*.

weighted late payment measure: see section 7.

tuition fees is defined in section 7 of the *Education Services for Overseas Students Act 2000*.

5 Meaning of **growth in overseas student enrolments**

- (1) If a registered provider had overseas student enrolments in 2013, the provider's **growth in overseas student enrolments** is worked out using the formula:

$$\left[\frac{\text{Number of overseas student enrolments in 2015}}{\text{Number of overseas student enrolments in 2013}} - 1 \right]$$

- (2) If a registered provider did not have overseas student enrolments in 2013, but had overseas student enrolments in 2014, the provider's **growth in overseas student enrolments** is worked out using the formula:

$$\left[\frac{\text{Number of overseas student enrolments in 2015}}{\text{Number of overseas student enrolments in 2014}} \right]^2 - 1$$

- (3) If a registered provider did not have overseas student enrolments in 2013, and did not have overseas student enrolments in 2014, the provider's **growth in overseas student enrolments** is zero.

6 Meaning of **maximum overseas source country concentration**

The **maximum source country concentration** for a registered provider is worked out using the following steps:

- Step 1** Work out the number of the enrolments with the registered provider in 2015 for each overseas source country
- Step 2** Divide the largest result for an individual overseas source country by the total number of enrolments
- Step 3** Express the result as a percentage

7 Meaning of **weighted late payment measure**

- (1) The **weighted late payment measure** for a registered provider is worked out using the following steps:

- Step 1** Work out $0.7 \times [\text{ARCDL}(2015) + \text{ETMCDL}(2015) + \text{TPSDL}(2015)]$
- Step 2** Work out $0.2 \times [\text{ARCDL}(2014) + \text{ETMCDL}(2014) + \text{TPSDL}(2014)]$
- Step 3** Work out $0.1 \times [\text{ARCDL}(2013) + \text{ETMCDL}(2013) + \text{TPSDL}(2013)]$
- Step 4** Add the results

- (2) *ARCDL*, and a year, is the number of days after the due date on which the annual registration charge for that year was received. However, if the payment was received before or on the due date, *ARCDL* for that year is zero.
- (3) *ETMCDL*, and a year, is the number of days after the due date on which the entry to market charge for that year was received. However, if the payment was received before or on the due date, *ETMCDL* for that year is zero.
- (4) *TPSLDL*, and a year, is the number of days after the due date on which the TPS Levy payable for that year was received. However, if the TPS Levy was received the before or on the due date, *AFDL* for the year is zero.

8 Risk rated premium component

- (1) For paragraph 9(3)(a) of the Act, the percentage for 2016 for the purposes of subsection 9(2) of the Act is 0.1%.
- (2) For paragraphs 9(3)(b) and (c) of the Act, the following table sets out:
 - (a) risk factors that reflect the risk of calls being made on the OSTF in respect of registered providers with that factor or those factors; and
 - (b) for each risk factor, the factor by which the specified percentage for 2016 is multiplied.

Item	Risk factor	Risk factor applies to	Category	Factor
1	Payment in arrears	All non-exempt providers	All tuition fees received after full duration of course for all registered courses	0.2
			Any amount of tuition fees received in advance of full course duration	1.0
2	Length of operation	Non-exempt providers who receive at least part of their tuition fees in advance of delivery of the course	Less than one year	3.4
			One year to less than 2 years	2.6
			2 years to less than 3 years	1.7
			3 years to less than 5 years	0.9
			5 years or more	0.0
3	Growth in overseas student enrolments	Non-exempt providers who: <ul style="list-style-type: none"> (a) receive at least part of their tuition fees in advance of delivery of the course; and (b) have a length of 	60% or more	4.1
			30% to less than 60%	1.5
			10% to less than 30%	0.5
			less than 10%	0.0

Item	Risk factor	Risk factor applies to	Category	Factor
		operation of 5 years or more; and		
		(c) had at least 20 enrolments, or \$400,000 in tuition fee income, in 2015		
4	Maximum overseas source country concentration	Non-exempt providers who:	80% or more	4.1
		(a) receive at least part of their tuition fees in advance of delivery of the course; and	50% to less than 80%	1.0
		(b) had at least 20 enrolments, or \$400,000 in tuition fee income, in 2015	25% to less than 50%	0.5
			less than 25%	0.0
5	Non-compliance history	All non-exempt providers	Either or both of the following apply:	2.7
			(a) there is a weighted late payment measure of 30 days or more;	
			(b) the provider has been sanctioned for non-compliance under Division 1 of Subdivision A of section 83 of the <i>Education Services for Overseas Students Act 2000</i> in the last year	
			There is a weighted late payment measure of less than 30 days but at least 15 days	1.4
			There is a weighted late payment measure of less than 15 days but at least 1 day	1.0

Section 2

Item	Risk factor	Risk factor applies to	Category	Factor
			There is no weighted late payment measure (payment made on time)	0.0

Note 1 Subsection 9(2) of the Act relates to a registered provider's risk component for a risk factor for a year. That subsection includes a formula with contents that are supported by this section.

Note 2 If more than one risk factor exists for a year to which subsection 9(2) of the Act relates, the matching factors in the last column of the table will be added together. The specified percentage will then be multiplied by the sum of the factors.

9 **TPS Levy risk rated premium component calculations and national registration process of CRICOS providers (national registration finalised in the period from 1 January to 31 December 2015)**

For CRICOS providers who amalgamate their registrations into a single registration through the national registration process, recalculate the risk factors in section 8 as follows:

- (a) calculate the payment in arrears on the basis of the fee structure for the resultant merged entity (or registration);
- (b) calculate the length of operation for the entity to which the single registration relates as the period commencing on the start of the longest-running registration in the amalgamation and ending on 31 December 2015;
- (c) calculate the growth in overseas student enrolments using section 5, but treat the number of overseas student enrolments for a year as the sum of student enrolments for all registrations in that year that were amalgamated into the single registration;
- (d) calculate the maximum overseas students source country concentration using section 6, as follows:
 - (i) calculate that the number of enrolments for each overseas source country as the sum of the enrolments for that overseas source country with each of the registrations that were amalgamated into the single registration; and
 - (ii) calculate the total number of enrolments as the sum of the total number of enrolments for all registrations that were amalgamated into the single registration.
- (e) calculate the non-compliance history for the resultant merged entity (or registration), including late payment measure and the sanctions for non-compliance under Division 1 of Subdivision A of section 83 of the *Education Services for Overseas Students Act 2000*, in the year 2015; and

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- (f) calculate the overseas students' tuition fee income for the 2015 calendar year as the sum of the overseas students' tuition fee income for all registrations that were amalgamated into the single registration.

10 Special tuition protection component

For subsection 10(2) of the Act, the specified percentage for 2016 for the purposes of subsection 10(1) of the Act is zero.

Note Subsection 10(1) of the Act relates to a registered provider's special tuition protection component for a year. That subsection includes a formula with contents that are supported by this section.

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.comlaw.gov.au.