



Education Services for Overseas Students Amendment Regulation 2016

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 05 May 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Richard Colbeck
Minister for Tourism and International Education

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1 Name

This is the *Education Services for Overseas Students Amendment Regulation 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2016.	1 July 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Education Services for Overseas Students Act 2000*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Education Services for Overseas Students Regulations 2001

1 Regulation 1.03 (definition of confirmation of enrolment)

Omit “the Secretary”.

2 Regulation 1.03 (definition of PRISMS)

Omit “to the Secretary in the form approved under subsection 19(3)”, substitute “under section 19”.

3 Regulation 1.03 (paragraph (a) of the definition of student visa)

Repeal the paragraph, substitute:

- (a) a visa granted to:
 - (i) a Foreign Affairs student (within the meaning of the *Migration Regulations 1994*); or
 - (ii) a Defence student (within the meaning of the *Migration Regulations 1994*); or

4 Regulation 1.03 (note)

Repeal the note, substitute:

- Note: For the definitions of the following terms, see section 5 of the Act:
- (a) accepted student;
 - (b) authorised officer;
 - (c) course;
 - (d) ESOS agency;
 - (e) overseas student;
 - (f) provide;
 - (g) provider;
 - (h) Register;
 - (i) registered provider;
 - (j) tuition fees.

5 Subregulation 2.01(1)

Omit “approved provider registered to provide a course or courses for a State”, substitute “provider registered to provide a course or courses at a location or locations”.

6 Paragraph 2.01(1)(d)

Omit “, facsimile number”.

7 Paragraph 2.01(1)(h)

Omit “designated authority”, substitute “ESOS agency for the provider”.

8 Paragraph 2.01(2)(a)

Repeal the paragraph, substitute:

- (a) the level and field of study of the course; and
- (aa) the duration of the course, including any holiday breaks; and

9 Subparagraph 2.01(2)(e)(iii)

Omit “fax number (if any),”.

10 Paragraph 3.01(k)

Repeal the paragraph.

11 Paragraph 3.01(l)

After “a test”, insert “specified in a legislative instrument made for paragraph 476.213(a) or 485.212(a) of Schedule 2 to the *Migration Regulations 1994*”.

12 Paragraph 3.01(m)

Repeal the paragraph.

13 Regulation 3.01 (examples)

Repeal the examples.

14 Paragraph 3.02(1)(a)

Omit “to the Secretary”.

15 Paragraph 3.02(1)(b)

Omit “provider);”, substitute “provider).”.

16 Paragraph 3.02(1)(c)

Repeal the paragraph.

17 Paragraph 3.03(1)(a)

Omit “to the Secretary”.

18 Paragraph 3.03(1)(b)

Omit “provider);”, substitute “provider).”.

19 Paragraph 3.03(1)(c)

Repeal the paragraph.

20 Paragraph 3.03(2)(a)

Omit “to the Secretary”.

21 Paragraph 3.03(2)(b)

Omit “provider);”, substitute “provider).”.

22 Paragraph 3.03(2)(c)

Repeal the paragraph.

23 After subregulation 3.03(2)

Insert:

(2A) For paragraph 19(1)(f) of the Act, the following are prescribed matters relating to an accepted student where the location at which the student's course is provided changes:

- (a) the information mentioned in paragraphs 3.01(a) to (h) for the student (if the provider has not already given that information using PRISMS);
- (b) the student's current residential address, mobile phone number (if any) and email address (if any) (if the student has given that information to the provider).

24 Regulation 3.03A (note)

Repeal the note, substitute:

Note: Subsection 19(2) of the Act requires a registered provider to give particulars of any breach by an accepted student of a prescribed condition of a student visa. Under subsection 19(3) of the Act, the information must be entered in the computer system established by the Secretary under section 109 of the Act.

25 Subregulation 6.02(1)

Omit "Minister", substitute "ESOS agency for the provider".

26 Subregulations 6.02(2) and (3)

Omit "Minister" (wherever occurring), substitute "ESOS agency".

27 Subregulation 6.04(1)

Omit "Minister,", substitute "ESOS agency for the provider,".

28 Subregulation 6.04(3)

Omit "Minister", substitute "ESOS agency".

29 Subregulation 6.05(1)

Repeal the subregulation, substitute:

(1) If:

- (a) an infringement notice has been served on a provider; and
- (b) the ESOS agency for the provider is satisfied that in all the circumstances it is proper to do so;

the ESOS agency may make an arrangement with the provider (whether or not the period of 28 days after the date of service of the notice has ended) for the payment of the amount of the infringement notice penalty by instalments.

30 Subregulation 6.05(2)

Omit "Minister", substitute "ESOS agency".

31 Subregulation 6.06(1)

Repeal the subregulation, substitute:

(1) If:

- (a) an infringement notice has been served on a provider; and
- (b) the ESOS agency for the provider is satisfied that in all the circumstances it is proper to do so;

the ESOS agency may withdraw the notice (whether or not the ESOS agency has received a notice under paragraph 6.02(2)(h)).

32 Subregulation 6.06(2)

Omit “Minister” (first occurring), substitute “ESOS agency for the provider”.

33 Subregulation 6.06(2)

Omit “Minister” (second occurring), substitute “ESOS agency”.

34 Subregulations 6.06(3), (4) and (5)

Omit “Minister” (wherever occurring), substitute “ESOS agency”.

35 Regulation 6.07

Repeal the regulation, substitute:

6.07 Payment of penalty if infringement notice not withdrawn

If:

- (a) an infringement notice has been served on a provider; and
- (b) the ESOS agency for the provider refuses to withdraw the infringement notice;

the provider must pay the infringement notice penalty before the end of 28 days after receiving notice of the refusal.

36 Paragraphs 6.11(1)(a) and (b)

Omit “the Minister or an authorised officer”, substitute “an authorised officer of the ESOS agency for the alleged offender”.

37 Paragraphs 6.11(1)(c) and (d)

Omit “the Minister”, substitute “an authorised officer of the ESOS agency for the alleged offender”.

38 Subregulation 6.11(2)

Omit “the Minister or an authorised officer”, substitute “an authorised officer of the ESOS agency for the alleged offender”.

39 Subregulation 6.11(2)

Omit “person”, substitute “authorised officer”.

40 Subregulation 6.11(3)

Repeal the subregulation.