



# **Education Services for Overseas Students (Calculation of Refund) Instrument 2024**

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I, Jason Clare, Minister for Education, make the following instrument.

Dated 26 September 2024

Jason Clare  
Minister for Education

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## 1 Name

This instrument is the *Education Services for Overseas Students (Calculation of Refund) Instrument 2024*.

## 2 Commencement

This instrument commences the day after this instrument is registered.

## 3 Authority

This instrument is made under subsections 46D(7) and 47E(4) of the *Education Services for Overseas Students Act 2000*.

## 4 Definitions

Note: A number of expressions used in this instrument are defined in section 5 of the Act, including the following:

- (a) agreed starting day;
- (b) course;
- (c) default;
- (d) default day;
- (e) intending overseas student;
- (f) overseas student;
- (g) provider;
- (h) registered provider;
- (i) student visa; and
- (j) tuition fees

In this instrument:

*Act* means the *Education Services for Overseas Students Act 2000*.

*student* means an overseas student or an intending overseas student.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## 6 Meaning of *weekly tuition fee*

- (1) For the purposes of this instrument, the *weekly tuition fee* in relation to a course provided or to be provided by a registered provider to a student means the tuition fee calculated as follows:

$$\text{weekly tuition fee} = \frac{\text{total tuition fees for the course}}{\text{number of calendar days in the course}} \times 7$$

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- (2) If the fee calculated under subsection (1) is not a whole dollar amount, round the fee up to the nearest whole dollar.

### **7 Meaning of *weeks in default period***

- (1) For the purposes of this instrument, the *weeks in default period* means the number of weeks in relation to a course:
- (a) during which a registered provider or a student defaulted; and
  - (b) for which the provider received payment of tuition fees in respect of the student;
- and calculated as follows:

$$\text{weeks in default period} = \frac{\text{number of calendar days from the default day to the end of the period to which the payment relates}}{7}$$

- (2) If the number of weeks calculated under subsection (1) is not a whole number, round the number up to the nearest whole number.

### **8 Method for working out amount of refund of tuition fees in event of provider default**

For the purposes of subsection 46D(6) of the Act, the amount of a refund of tuition fees received by a registered provider in respect of a student is calculated as follows:

$$\text{refund amount} = \text{weekly tuition fee} \times \text{weeks in default period}$$

### **9 Method for working out amount of refund if provider does not enter into compliant student default agreement**

For the purposes of subsection 47E(2) of the Act, if a registered provider is required to provide a refund to a student under subsection 47E(1) of the Act because the provider has not entered into an agreement with the student that meets the requirements of section 47B of the Act, the amount of a refund is calculated as follows:

$$\text{refund amount} = \text{weekly tuition fee} \times \text{weeks in default period}$$

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## 10 Method for working out amount of refund in event of student visa refusal

- (1) For the purposes of subsection 47E(2) of the Act, if a registered provider is required to provide a refund to a student under subsection 47E(1) of the Act, and the provider is not required to pay a refund to the student because of subsection 47D(5) of the Act, the amount of a refund is calculated as set out in subsections (2) and (4).
- (2) If the student was refused a student visa and the refusal caused the student to fail to start the course at the location on the agreed day, consistent with subparagraph 47D(5)(b)(i) of the Act, the amount of a refund is calculated as the amount of the course fees, minus the lesser of the following amounts:
  - (a) 5% of the amount of course fees received by the provider in respect of the student before the default day;
  - (b) \$500.
- (3) For the purposes of subsection (2), the *course fees* for a course is the sum of:
  - (a) the tuition fees received by the provider in respect of the student; and
  - (b) the non-tuition fees (if any) received by the provider in respect of the student.
- (4) If the student was refused a student visa and the refusal caused the student to withdraw from the course at that location, or fail to pay an amount that they were liable to pay the provider to undertake the course, consistent with subparagraphs 47D(5)(b)(ii) and (iii) of the Act, the amount of a refund is calculated as follows:

$$\text{refund amount} = \text{weekly tuition fee} \times \text{weeks in default period}$$

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## **Schedule 1—Repeals**

### ***Education Services for Overseas Students (Calculation of Refund) Specification 2014***

#### **1 The whole of the instrument**

Repeal the instrument