



Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Act (No. 1) 1997

No. 19, 1997



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**An Act to amend the *Education Services for
Overseas Students (Registration of Providers and
Financial Regulation) Act 1991*, and for related
purposes**

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***An Act to amend the *Education Services for
Overseas Students (Registration of Providers and
Financial Regulation) Act 1991*, and for related
purposes***

[Assented to 27 March 1997]

The Parliament of Australia enacts:

*Education Services for Overseas Students (Registration of Providers and Financial Regulation)
Amendment Act (No. 1) 1997 No. 19, 1997 1*

1 Short title

This Act may be cited as the *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Act (No. 1) 1997*.

2 Commencement

This Act commences on the 28th day after the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991

1 After section 2

Insert:

2A Crown to be bound

This Act binds the Crown in each of its capacities.

2 Section 3

Insert:

annual registration charge means annual registration charge imposed under the *Education Services for Overseas Students (Registration Charges) Act 1997*.

3 Section 3

Insert:

initial registration charge means initial registration charge imposed under the *Education Services for Overseas Students (Registration Charges) Act 1997*.

4 After subsection 5(3)

Insert:

- (3A) Subsection (2) does not apply in relation to a provider if:
- (a) the provider is liable to pay any annual registration charge, re-instatement fee or late payment penalty; and
 - (b) one or more of those amounts remains unpaid after the time when it became due for payment;
- unless the Minister is satisfied that in all the circumstances it is appropriate to register that provider.

5 After section 5

Insert:

5A Annual registration charge

A provider who is liable to pay an annual registration charge for a year must pay the charge by the last day of February of the year.

5B Initial registration charge

- (1) A provider who is liable to pay an initial registration charge for a registration must pay the charge by the day specified in a notice given to the provider by the Secretary.
- (2) The day specified in the notice must be more than 28 days after the day the notice is given.

5C Information and records

- (1) A provider must give or produce to the Secretary any information or document relating to enrolments in the provider's courses that the Secretary requests in writing.
- (2) A provider must not give information under subsection (1) that the provider knows, or reasonably suspects, is false or misleading.
- (3) If a provider produces a document under subsection (1) that the provider knows, or reasonably suspects, contains false or misleading information, the provider must give to the Secretary a statement, in writing, identifying the aspects of the information that are false or misleading.
- (4) A provider must keep proper records of enrolments in the provider's courses.

6 After section 11

Insert:

11A Re-instatement fee

- (1) A provider is liable to pay a re-instatement fee if:

- (a) the suspension of the registration of the provider is removed under subsection 10(4); or
 - (b) the registration of the provider is restored under subsection 11(2).
 - (2) The fee must be paid by the day specified in a notice given to the provider by the Secretary.
 - (3) The day specified in the notice must be more than 28 days after the day the notice is given.
 - (4) The amount of the re-instatement fee is:
 - (a) \$100 for 1997; and
 - (b) for a later year (the **current year**), the amount worked out by multiplying the re-instatement fee for the year before the current year by the indexation factor that applies to the current year.
 - (5) The indexation factor that applies to the current year is worked out using the following formula:
$$\frac{\text{Index number for the recent September quarter}}{\text{Index number for the previous September quarter}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician for that quarter.

recent September quarter means the September quarter in the year before the current year.

previous September quarter means the September quarter before the recent September quarter.
 - (6) The indexation factor worked out under subsection (5) must be rounded up or down to 3 places (rounding up in the case of exactly halfway between).
 - (7) The amount worked out under subsection (5) must be rounded to the nearest whole dollar (rounding up in the case of 50 cents).
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- (8) If at any time (whether before or after the commencement of this section) the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of applying this section after the change, only index numbers published in terms of the new reference base are to be used.

7 At the end of section 13

Add:

- (4) If any initial registration charge payable by a provider for a registration remains unpaid after the time when it became due for payment, then the registration of the provider is cancelled by force of this subsection.

8 After section 17

Insert:

17A Late payment penalty

If any annual registration charge or re-instatement fee payable by a provider remains unpaid after the time when it became due for payment, then the provider must pay a late payment penalty calculated from that time at the rate of 20% per year on the amount unpaid.

17B Debts due to the Commonwealth

The following are recoverable as debts due to the Commonwealth:

- (a) any annual registration charge;
- (b) any re-instatement fee or late payment penalty payable under this Act.

17C Amounts payable by unincorporated bodies

If a provider that is an unincorporated body is liable to pay an amount under this Act or the *Education Services for Overseas Students (Registration Charges) Act 1997*, then the following persons are taken to be jointly and severally liable to pay the amount:

- (a) the principal executive officer of the provider at the time the liability arose; and
- (b) if there was a governing body of the provider at that time—each of the persons who were members of that governing body at that time.

9 Transitional arrangements for 1997

If this Act does not commence before 1 January 1997, then section 5A of the *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991* (as inserted by this Schedule) applies for 1997 as if the reference in that section to “by the last day of February of the year” were a reference to “by the end of 2 months after this section commenced”.

*[Minister’s second reading speech made in—
House of Representatives on 9 October 1996
Senate on 9 December 1996]*

(128/96)

I HEREBY CERTIFY that the above is a fair print of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Bill (No. 1) 1997 which originated in the House of Representatives as the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Bill (No. 2) 1996 and has been finally passed by the Senate and the House of Representatives.

Clerk of the House of Representatives

IN THE NAME OF HER MAJESTY, I assent to this Act.

Governor-General
1997

(128/96)