

Education Services for Overseas Students (Registration of Providers and Financial Regulation) Regulations (Amendment) 1994 No. 146

EXPLANATORY STATEMENT

Statutory Rules 1994 No. 146

Issued by the authority of the Minister for Employment, Education and Training

Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991

Education Services for Overseas Students (Registration of Providers and Financial Regulation) Regulations (Amendment)

The Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991 (the Act) provides the legislative authority for the registration of all courses offered by Australian education providers to overseas students and for requiring providers to assure the financial security of fees paid in advance by overseas students.

Section 19 of the Act provides that the Governor-General may make regulations for the purposes of the Act.

The proposed Regulations make the following amendments to the existing regulations.

New Regulation 4 (Withdrawals and payments out of notified trust accounts - tuition fees)

This regulation is substituted with a new regulation 4. The current regulation states that providers may only withdraw moneys out of the notified trust account after a student has received a student visa or entry permit under the Migration Act 1958. The regulation also allows providers to withdraw up to 20% of pre-paid tuition fees after visa issue but prior to course commencement

The proposed regulation 4 is intended to allow providers to withdraw money from the notified trust account to cover the administration/admission/enrolment costs that they have incurred prior to students being issued visas.

It is proposed under the amended regulation that the administration/admission/enrolment fee may be an amount up to \$500 but no more than 20% of pre-paid tuition fees, whichever is less, and must not be withdrawn without the students prior written agreement. The balance, if any, of the first withdrawal of 20% that the provider may make prior to course commencement can occur after visa issue.

The proposed regulation also allows providers to withdraw an amount up to 45% of pre-paid tuition fees *on* course commencement. This amount should include the above 20% of pre-paid tuition fees, if it had been withdrawn prior to course commencement. The proposed regulation also allows providers to withdraw the remaining funds after course commencement on a proportionate basis, in arrears, and no more frequently than weekly.

Regulation 5 (Withdrawals and payments out of notified trust accounts - other fees and charges)

The proposed amendments to the regulation insert the requirement that providers must not withdraw or pay out of the notified trust account money to paid for other fees and charges until the student has been issued a student visa or entry permit under the Migration Act 1958.

Subregulation 5(3): Currently, subregulation 5(3) allows providers to withdraw health insurance cover on or after the day *on* which the payment is due. The proposed amendment to subregulation 5(3) will allow a provider, who has received this money from a prospective student, to withdraw, prior to visa issue, money to pay for the students health cover to ensure that the student complies with the migration regulations. Me migration regulations specify that health cover must be pre-paid by students applying for a visa.)

The proposed amendment will also allow providers to withdraw money to make, health cover payments for several continuing students at one time, often in advance of the day on which payment is due. This practice facilitates the administration of this service that providers offer their students. The proposed amendment allows the withdrawal no more than four weeks in advance of the day on which the payment is due.

The proposed regulations will commence on gazettal.