



282/

L

16 August/

L

BILL HAYDEN/  
ral

2

SIMON CREAM

## **1. Commencement**

1.1 These Regulations commence on 24 August 1994.

## **2. Amendment**

2.1 The Education Services for Overseas Students (Registration of Providers and Financial Regulation) Regulations are amended as set out in these Regulations.

## **3. Regulation 2 (Interpretation)**

3.1 Definition of “company limited by guarantee”:

Omit the definition.

3.2 Definition of “TAS operator”:

Omit “a company”, substitute “an association of providers”.

3.3 Definition of “unlimited company”:

Omit the definition.

## **4. Regulation 9 (Other exemptions—membership of a TAS)**

4.1 Paragraph 9 (1) (b):

Omit the paragraph, substitute:

“(b) the provider has a written agreement with each student for the course under which the student is required to pay course money only:

(i) after the full course, or a part of the course in respect of which another provider will give credit in a course of education or training, has been provided; and

(ii) in respect of other goods and services—after those goods and services have been provided; or”.

4.2 Subregulations 9 (2) and (3):

Omit the subregulations, substitute:

“(2) A provider who is not exempt from the requirements of section 7A of the Act under regulation 8 or subregulation (1) is exempt from those requirements if the Minister is satisfied that the provider:

- (a) is not a member of a TAS because the provider:
  - (i) is unable to become a member because of the special nature of the course offered by the provider; or
  - (ii) in the circumstances, cannot reasonably be expected to become a member; or
  - (iii) does not wish to become a member; and
- (b) has obtained, for each student who has paid course money in advance, an insurance policy that complies with regulation 15 or:
  - (i) a bank guarantee within the meaning of the *Banking Act 1959*; or
  - (ii) a guarantee from an organisation that, in relation to the provider, is a parent organisation;  
that offers each student indemnity equivalent to that provided by an insurance policy that complies with regulation 15.

“(3) For the purposes of subregulation (2), the provider must give the Minister written notice explaining the provider’s inability or unwillingness to become a member of a TAS, and a copy of the insurance policy or the instrument of guarantee:

- (a) if, at the time this regulation commences, the provider is registered in respect of the course, or has applied for registration in respect of the course and the application has not been refused—before 30 November 1994; or
- (b) in any other case—when the provider applies for registration in respect of the course.

“(4) The notice must include the name of each student indemnified by the policy or guarantee.”.

## **5. Regulation 11 (Establishment of a TAS)**

### **5.1 Omit the regulation, substitute:**

“**11.** A TAS is taken to be established for the purposes of paragraph 7A (1) (a) of the Act if it:

- (a) includes arrangements that ensure that an overseas student who has paid course money to a member of the scheme for a course that does not start on the agreed

starting date, or that the member ceases to provide after it starts but before it is completed, is (unless the student has withdrawn from the course):

- (i) provided education or training equivalent to the education or training that the member has not provided, or has ceased to provide; and
  - (ii) not required to pay any additional tuition fees in respect of that part of the equivalent education or training for which tuition fees have been paid; and
- (b) provides for the circumstances in which a provider's membership of the TAS may be cancelled; and
- (c) is a scheme approved in writing by the Minister under regulation 17.”.

**6. Regulation 12 (TAS requirements)**

6.1 Omit the regulation.

**7. Regulation 13 (TAS operators)**

7.1 Omit the regulation, substitute:

“**13.** A TAS must be operated by an association of providers that has, as one of its expressed objects, the operation of a TAS under the Act.”.

**8. Regulation 14 (Membership, objects and rules of companies operating a TAS)**

8.1 Omit the regulation.

**9. Regulation 15 (Insurance policy requirements)**

9.1 Subregulation 15 (1):

Omit “or by a TAS operator”.

9.2 Subparagraph 15 (1) (e) (iv):

Omit “training; and”, substitute “training.”.

9.3 Paragraph 15 (1) (f):  
Omit the paragraph.

9.4 Subregulation 15 (2):  
Omit the subregulation.

**10. Regulation 16 (Application for approval of a TAS)**

10.1 Paragraph 16 (2) (a):

Omit “, including information whether the operator is an unlimited company or a company limited by guarantee”.

10.2 Paragraph 16 (2) (b):

Omit “way in which the TAS will provide for payment of amounts to students, and of the”.

10.3 Paragraph 16 (2) (b):

Omit “students, as mentioned in regulation 12;”, substitute “students;”.

10.4 Subregulation 16 (3):

Omit the subregulation.

**11. Regulation 18 (Reporting requirements)**

11.1 Subregulation 18 (1):

Omit “Within 60 days after the end of a reporting period”, substitute “Within 28 days after the end of a financial year”.

11.2 Paragraph 18 (1) (e):

Omit the paragraph.

## **12. New regulation 18A**

### **12.1 Insert after regulation 18:**

#### **Reporting requirements—providers exempt from membership of a TAS**

**“18A. (1)** A provider who is exempt from the requirements of section 7A of the Act under regulation 9 must, within 28 days after the end of a reporting period, give the Minister:

- (a) written notice explaining why the provider is exempt from the requirements of section 7A of the Act; and
- (b) if the provider is exempt from the requirements of section 7A of the Act under subregulation 9 (2):
  - (i) a copy of the insurance policy or instrument of guarantee referred to in paragraph 9 (2) (b); and
  - (ii) a list containing the name of each student indemnified by the policy or guarantee.”.

---

#### **NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on *L* 1994.
2. Statutory Rules 1991 No. 364 as amended by 1992 No. 168; 1994 Nos. 101, 146 and 154.

*17 August*