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Statutory Rules 1995 No. L1 13

Education Services for Overseas Students (Registration of Providers and Financial Regulation) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Education Services for Overseas
Students (Registration of Providers and Financial Regulation) Act
1991*.

Dated

L 1995.

7 February

L BILL HAYDEN
Governor-General

By His Excellency's Command,

L
Minister for Employment, Education and Training

SIMPON CREAN

1. Amendment

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

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Regulation 2 (Interpretation)

2.1 Insert the following definition:

“ ‘course enrolment fees’ has the meaning given in subregulation 6A (3);”.

2.2 Definition of “tuition fees”:

Omit the definition, substitute:

“ ‘tuition fees’, in relation to a student:

(a) includes:

- (i) any amount payable by the student to a provider by way of commission and administration fees; and
- (ii) if an amount of course money for course enrolment fees exceeding \$250 is paid to a provider by, or on behalf of, a student—the part of that amount that exceeds \$250; and
- (iii) if it is a requirement of the course being undertaken, or to be undertaken, by the student that the student must live in the accommodation to which the following costs relate—the costs of board and lodging and any additional costs for the provision of domestic services; and

(b) does not include course enrolment fees;”.

3. Regulation 4 (Withdrawals and payments out of notified trust accounts—tuition fees)

3.1 Omit the regulation, substitute:

**Withdrawals and payments out of notified trust accounts—
course enrolment fees**

“4. If:

- (a) an amount of course money that, under these Regulations, is taken to be course enrolment fees is paid to a provider by, or on behalf of, a student; and
- (b) the provider pays the whole or any part of the amount into a notified trust account;

the provider may withdraw or pay out of the notified trust account the whole or any part of the amount.

**Withdrawals and payments out of notified trust accounts—
tuition fees**

“4A. (1) If:

- (a) an amount of course money for tuition fees is paid to a provider by, or on behalf of, a student; and
- (b) the provider pays the whole of the amount into a notified trust account;

the provider may withdraw or pay the money out of the notified trust account in accordance with subregulations (2) and (5).

“(2) A provider to whom subregulation (1) applies may withdraw or pay out of a notified trust account:

- (a) before the start of a course—an amount of money not exceeding 20% of the amount standing to the credit of the student in the account; and
- (b) on or after the day on which the course starts—an amount of money not exceeding 45% of the amount standing to the credit of the student in the account before any withdrawal or payment out of the account occurred under paragraph (a).

“(3) If:

- (a) an amount of course money for tuition fees is paid to a provider by, or on behalf of, a student; and
- (b) under the exemption provided in subregulation 6A (1), the provider does not pay into a notified trust account a part that does not exceed 20% of the amount;

the provider may withdraw or pay the money out of the notified trust account in accordance with subregulations (4) and (5).

“(4) A provider to whom subregulation (3) applies may withdraw or pay out of a notified trust account:

- (a) before the start of a course—an amount of money not exceeding the difference between 20% of the amount referred to in paragraph (3) (a) and the amount that has not been paid into the account; and
- (b) on or after the day on which the course starts—an amount of money not exceeding the difference between 45% of the amount referred to in paragraph (3) (a) and:
 - (i) if an amount of money has been withdrawn or paid out of the account under paragraph (a)—the sum of that amount and the amount that has not been paid into the account; or
 - (ii) if an amount of money has not been withdrawn or paid out of the account under paragraph (a)—the amount that has not been paid into the account.

“(5) A provider may withdraw or pay any part of the remaining course money out of the notified trust account if:

- (a) the amount withdrawn or paid out of the account does not exceed the amount of tuition fees for a part of the course that has already been provided to the student; and
- (b) the provider does not act under this subregulation more than once in a week.”.

4. Regulation 5 (Withdrawals and payments out of notified trust accounts—other fees and charges)

4.1 Paragraph 5 (1) (b):

Omit “the end of”, substitute “the commencement of”.

4.2 Insert after subregulation 5 (3):

“(3A) Subregulation (1A) does not apply to the withdrawal or payment of money out of a notified trust account for the purpose of acquiring health insurance for a student to the extent that is necessary for the grant of a visa under the *Migration Act 1958* that permits the student to travel to, or remain in, Australia to undertake a course.”.

5. New regulation 6A

5.1 Insert after regulation 6:

Exemption from payment into notified trust account

“6A. (1) If an amount of course money for tuition fees is paid to a provider by, or on behalf of, a student, the provider is exempt from the requirement of paragraph 6A (1) (b) of the Act in relation to so much of the amount as does not exceed 20% of the amount.

“(2) If an amount of course money for course enrolment fees is paid to a provider by, or on behalf of, a student, the provider is exempt from the requirement of paragraph 6A (1) (b) of the Act in relation to the amount.

“(3) In this regulation, ‘course enrolment fees’ means course money paid by or for a student as enrolment fees for a course, being:

- (a) if the amount paid is not more than \$250—the amount paid; or
- (b) if the amount paid is more than \$250—so much of that amount as:
 - (i) is required for the enrolment of the student; and
 - (ii) does not exceed \$250.”.

*Education Services for Overseas Students
(Registration of Providers and Financial
Regulation) 1995 No.*

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on L 1995. 14 February
2. Statutory Rules 1991 No. 364 as amended by 1992 No. 168; 1994 No. 101,
146, 154 and 282. S/