Education Services for Overseas Students Amendment Act 2014

No. 2, 2014

An Act to amend the *Education Services for Overseas Students Act 2000*, and for related purposes

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Education Services for Overseas Students Amendment Act 2014

No. 2, 2014

An Act to amend the *Education Services for Overseas Students Act 2000*, and for related purposes

[*Assented to 28 February 2014*]

The Parliament of Australia enacts:

1 Short title

 This Act may be cited as the *Education Services for Overseas Students Amendment Act 2014*.

2 Commencement

 (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 28 February 2014 |
| 2. Schedule 1 | A single day to be fixed by Proclamation.However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period. | 1 July 2014(*see* F2014L00709) |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

 (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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 Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Education Services for Overseas Students Act 2000

1 Section 5 (subparagraph (b)(ii) of the definition of *monitoring purpose*)

Repeal the subparagraph, substitute:

 (ii) refund amounts to its accepted students under Division 2 of Part 5.

2 Section 5 (definition of *national code*)

Omit “Registration Authorities and”.

3 Section 5 (definition of *pre‑paid fees*)

Repeal the definition.

4 Division 2 of Part 3 (heading)

Repeal the heading, substitute:

Division 2—Tuition fees

5 Section 27 (heading)

Repeal the heading, substitute:

27 Tuition fees

6 Subsection 27(1) (heading)

Repeal the heading, substitute:

Limit on tuition fees received before course begins

7 Section 28 (heading)

Repeal the heading, substitute:

28 Obligation for registered provider to maintain account

8 Subsection 28(2) (heading)

Repeal the heading, substitute:

Account to be maintained with an Australian ADI

9 Subsection 28(3)

Repeal the subsection.

10 Section 29 (heading)

Repeal the heading, substitute:

29 Obligations in relation to account money

11 Subsection 29(1) (heading)

Repeal the heading, substitute:

Tuition fees received before course begins to be paid to credit of account

12 Subsection 33(2)

Omit “Registration Authorities and”.

13 Paragraph 38(g)

Omit “of pre‑paid fees”, substitute “under Division 2 of Part 5”.

14 Subsection 46D(6)

Omit “pre‑paid”, substitute “tuition”.

15 Subsection 46D(6) (note)

Omit “initial pre‑paid fees account”, substitute “account in accordance with section 28”.

16 Subsection 46D(7)

Omit “pre‑paid”, substitute “tuition”.

17 Subsection 47D(2) (note)

Omit “initial pre‑paid fees account”, substitute “account in accordance with section 28”.

18 Subsection 47E(2)

Repeal the subsection, substitute:

 (2) The provider must pay the student a refund of the amount worked out in accordance with an instrument under subsection (4).

Note: For providers who are required to maintain an account in accordance with section 28, the refund might be paid out of the account: see section 29.

19 Subsection 47E(4)

Repeal the subsection, substitute:

Legislative instrument

 (4) The Minister may, by legislative instrument, specify a method for working out the amount of a refund for the purposes of subsection (2).

20 Subsection 50C(1)

Omit “pre‑paid fees”, substitute “fees to which the refund requirements under Division 2 relate”.

21 Subsection 50C(2) (note)

Omit “initial pre‑paid fees account”, substitute “account in accordance with section 28”.

22 Paragraph 83(1A)(b)

Repeal the paragraph, substitute:

 (b) refund amounts to its accepted students under Division 2 of Part 5.

23 Application and saving provisions

(1) Despite the amendment made by item 3, the definition of ***pre‑paid fees*** in section 5 of the *Education Services for Overseas Students Act 2000*, as in force immediately before the commencement of that item, continues to apply on and after that commencement for the purposes of:

 (a) working out compliance with section 47B of that Act for agreements entered into before that commencement; and

 (b) the operation of Part 5 of that Act in relation to defaults that occur before that commencement.

(2) The amendment made by item 12 does not affect the continuity of the code under Part 4 of the *Education Services for Overseas Students Act 2000* that was in force immediately before the commencement of that item.

(3) The amendment made by item 13 applies in relation to agreements entered into under section 47B of the *Education Services for Overseas Students Act 2000* on or after the commencement of that item.

(4) The amendments made by items 14, 16, 18, 19 and 20 apply in relation to defaults that occur on or after the commencement of those items.

[*Minister’s second reading speech made in—*

*House of Representatives on 4 December 2013*

*Senate on 12 February 2014*]

(233/13)