

2004-2005-2006-2007

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Education Services for Overseas
Students Legislation Amendment Bill
2007**

No. , 2007

(Education, Science and Training)

**A Bill for an Act to amend the law relating to the
provision of education services to overseas students,
and for related purposes**

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1 **A Bill for an Act to amend the law relating to the**
2 **provision of education services to overseas students,**
3 **and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Education Services for Overseas*
7 *Students Legislation Amendment Act 2007*.

8 **2 Commencement**

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

13

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 on which this Act receives the Royal Assent.	
2. Schedule 1	1 July 2007.	1 July 2007

1 Note: This table relates only to the provisions of this Act as originally
2 passed by both Houses of the Parliament and assented to. It will not be
3 expanded to deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule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

1
2
3

Schedule 1—Amendments

4

Education Services for Overseas Students Act 2000

5

1 After section 4

6 Insert:

7

4A Objects

8 The principal objects of this Act are:

- 9 (a) to provide financial and tuition assurance to overseas
10 students for courses for which they have paid; and
11 (b) to protect and enhance Australia’s reputation for quality
12 education and training services; and
13 (c) to complement Australia’s migration laws by ensuring
14 providers collect and report information relevant to the
15 administration of the law relating to student visas.

16

4B Extension of this Act to Christmas Island and Cocos (Keeling) 17 Islands

18 (1) Subject to subsection (2), this Act applies in relation to the
19 Territory of Christmas Island and the Territory of Cocos (Keeling)
20 Islands as if:

- 21 (a) a reference in a provision of this Act to a State included a
22 reference to the Territory of Christmas Island or the Territory
23 of Cocos (Keeling) Islands; and
24 (b) a reference in a provision of this Act to a designated authority
25 in relation to a State included a reference to the Territories
26 Minister.

27 (2) Paragraph (1)(a) does not apply in relation to the following
28 provisions:

- 29 (a) the definitions of *designated authority* and *State* in section 5;
30 (b) paragraph 9(5)(a);
31 (c) paragraph 24(2)(a);
32 (d) section 36;
33 (e) section 79;

- 1 (f) paragraph 127(3)(b);
2 (g) paragraph 152(3)(b);
3 (h) paragraph 175(1)(e).

- 4 (3) The Territories Minister may, by signed writing, delegate all or any
5 of his or her functions or powers as a designated authority under
6 this Act to:
7 (a) an APS employee who is an SES employee or acting SES
8 employee; or
9 (b) an officer or employee of a State.

10 **2 Section 5 (definition of *approved provider*)**

11 Omit “in the State”, substitute “for the State”.

12 **3 Section 5 (definition of *designated authority*)**

13 Omit “in the State”, substitute “for the State”.

14 **4 Section 5**

15 Insert:

16 *Territories Minister* means the Minister responsible for
17 administering the *Christmas Island Act 1958*.

18 **5 Paragraph 8(1)(f)**

19 Omit “for that particular State”, substitute “for a State”.

20 **6 Subsection 8(1) (note 1)**

21 Omit “in a State”.

22 **7 Subparagraph 8(3)(b)(iv)**

23 Omit “for that State”, substitute “for a State”.

24 **8 Subsection 9(1)**

25 Omit “in that State”, substitute “for that State”.

26 **9 Paragraph 9(2)(c)**

27 Omit “that the provider complies with the national code”, substitute “,
28 in the form approved by the Secretary for the purposes of this paragraph
29 for the State, relating to the provider’s compliance with the national
30 code”.

10 Paragraph 10(4)(a)

Omit “in a specified State”, substitute “for a specified State”.

11 Paragraph 20(4)(b)

Omit “explaining the breach”, substitute “making any submissions about the breach and the circumstances that led to the breach”.

12 Subsection 28(1)

Repeal the subsection, substitute:

(1) A registered provider must enter into a written agreement with each overseas student or intending overseas student that:

(a) sets out the refund requirements that apply in a situation covered by subsection 27(2); and

(b) meets the requirements (if any) set out in the national code.

Note: The heading to section 28 is altered by omitting “**if there is**” and substituting “**under**”.

13 Subsection 28(2)

Omit “The provider”, substitute “In a situation covered by subsection 27(2), the provider”.

14 Subsection 28(4)

Omit “Despite subsection (1), this section does not apply if”, substitute “Subsections (2) and (3), and the agreement mentioned in subsection (1), do not apply in relation to the student if”.

15 Paragraph 28(4)(b)

Omit “subsection 27(2) to apply”, substitute “the situation covered by subsection 27(2)”.

16 Before subsection 29(1)

Insert:

(1A) This section applies:

(a) in a situation covered by subsection 27(1); or

(b) in a situation covered by subsection 27(2) if:

(i) an agreement has not been entered into with the student that meets the requirements of subsection 28(1); or

1 (ii) paragraphs 28(4)(a) and (b) apply in relation to the
2 student.

3 **17 Subsection 29(1)**

4 Omit “Unless section 28 applies, the”, substitute “The”.

5 **18 Subsection 43(2)**

6 Before “request”, insert “may”.

7 **19 Section 88**

8 Omit “in the State”, substitute “for the State”.

9 **20 Paragraphs 107(1)(a), (b) and (c)**

10 Omit “in the State”, substitute “in a State”.

11 **21 Paragraph 107(1)(d)**

12 Omit “for the State”.

13 **22 Paragraph 172(1)(c)**

14 Omit “annual Fund contribution or”.

15 **23 Application of item 22**

16 The amendment made by item 22 applies in relation to annual Fund
17 contribution payable in respect of the calendar year commencing on
18 1 January 2008.

19 ***Migration Act 1958***

20 **24 Subsection 137J(1) (note)**

21 Omit “explaining the breach”, substitute “making any submissions
22 about the breach and the circumstances that led to the breach”.

23 **25 Subsection 137J(2)**

24 Omit “explaining the breach alleged in the notice”, substitute “making
25 any submissions about the breach and the circumstances that led to the
26 breach”.

27 **26 Application of items 24 and 25**

1 The amendments made by items 24 and 25 apply in relation to a notice
2 sent under section 20 the *Education Services for Overseas Students Act*
3 2000 after the commencement of this item.