



Education Services for Overseas Students (Calculation of Refund) Specification 2014

Education Services for Overseas Students Act 2000

I, CHRISTOPHER PYNE, Minister for Education, make the following specification under subsections 46D(7) and 47E(4) of the *Education Services for Overseas Students Act 2000*.

Dated 26 June 2014

CHRISTOPHER PYNE
Minister for Education

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1 Name of specification

This specification is the *Education Services for Overseas Students (Calculation of Refund) Specification 2014*.

2 Commencement

This specification commences immediately after Schedule 1 to the *Education Services for Overseas Students Amendment Act 2014* commences.

3 Revocation

The following instruments are revoked:

- (a) *Education Services for Overseas Students (Calculation of unspent pre-paid fees – other cases) Determination 2012 (No. 1)*;
- (b) *Education Services for Overseas Students (Calculation of unspent pre-paid fees – provider default) Determination 2012 (No. 1)*.

Note Those instruments continue to apply to calculation of refunds under sections 46D and 47E of the Act in relation to defaults occurring before commencement of this instrument: see item 23 of Schedule 1 to the *Education Services for Overseas Students Amendment Act 2014*.

4 Definitions

In this specification:

student means an overseas student or an intending overseas student.

the Act means the *Education Services for Overseas Students Act 2000*.

Note Other terms in this specification have the same meaning in this specification as they do in the Act: s 13(1)(b) *Legislative Instruments Act 2003*.

5 Meaning of *weekly tuition fee*

- (1) In this specification, the ***weekly tuition fee*** in relation to a course provided or to be provided by a registered provider to a student means the tuition fee calculated as follows:

$$\text{weekly tuition fee} = \left(\frac{\text{total tuition fees for the course}}{\text{number of calendar days in the course}} \right) \times 7$$

- (2) If the fee calculated under subsection (1) is not a whole dollar amount, round the fee up to the nearest whole dollar.

6 Meaning of *weeks in default period*

- (1) In this specification, the number of *weeks in default period* in relation to a course:
- (a) during which a registered provider or a student defaulted; and
 - (b) for which the provider received payment of tuition fees in respect of the student;

means the number of weeks calculated as follows:

$$\text{weeks in default period} = \frac{\text{number of calendar days from the default day to the end of the period to which the payment relates}}{7}$$

- (2) If the number of weeks calculated under subsection (1) is not a whole number, round the number up to the nearest whole number.

7 Method for working out amount of refund of tuition fees in event of provider default

For subsection 46D(6) of the Act, the amount of a refund of tuition fees received by a registered provider in respect of a student is calculated as follows:

$$\text{refund amount} = \text{weekly tuition fee} \times \text{weeks in default period}$$

8 Method for working out amount of refund if provider does not enter into compliant student default agreement

- (1) This section applies if a registered provider is required to provide a refund to a student under section 47E of the Act because the provider has not entered into an agreement with the student that meets the requirements of section 47B of the Act.
- (2) For subsection 47E(2) of the Act, the amount of a refund is calculated as follows:

$$\text{refund amount} = \text{weekly tuition fee} \times \text{weeks in default period}$$

9 Method for working out amount of refund in event student fails to start a course due to visa refusal

- (1) This section applies if:
- (a) a registered provider is required to provide a refund to a student under section 47E of the Act because:
 - (i) the student was refused a student visa; and
 - (ii) the refusal was a reason for the student's failure to start the course on, or withdrawal from the course on or before, the agreed starting day; and
 - (b) section 8 does not apply.

- (2) For subsection 47E(2) of the Act, the amount of a refund is the amount of the course fees, minus the lesser of the following amounts:
- (a) 5% of the amount of course fees received by the provider in respect of the student before the default day;
 - (b) \$500.
- (3) For subsection (2), the *course fees* for a course is the sum of:
- (a) the tuition fees received by the provider in respect of the student; and
 - (b) the non-tuition fees (if any) received by the provider in respect of the student.

10 Method for working out amount of refund in event of other student default

- (1) This section applies if:
- (a) a registered provider is required to provide a refund under section 47E of the Act because of a default by a student; and
 - (b) section 8 and section 9 do not apply.

Note This section would apply where a student whose visa has been refused has withdrawn from the course after it commenced, or has failed to pay an amount he or she was liable to pay the provider in order to undertake the course.

- (2) For subsection 47E(2) of the Act, the amount of a refund is calculated as follows:

refund amount = weekly tuition fee × weeks in default period