

EXPLANATORY STATEMENT

Issued by the authority of the Tuition Protection Service Director

Education Services for Overseas Students (TPS Levies) Act 2012

Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2021

AUTHORITY

Paragraph 54B(f) of the *Education Services for Overseas Students Act 2000* (ESOS Act) provides that a function of the Tuition Protection Service Director (TPS Director) is to make a legislative instrument each year for the purposes of subsections 9(3) and 10(2) of the *Education Services for Overseas Students (TPS Levies) Act 2012* (the Act).

Subsection 9(3) of the Act requires the TPS Director, before the beginning of each year, to make a legislative instrument specifying certain matters in relation to the risk rated premium component of the TPS levy. Subsection 10(2) of the Act requires the TPS Director, before the beginning of each year, to make a legislative instrument specifying a percentage for that year for the special tuition protection component of the TPS Levy.

Subsection 11(1) of the Act requires the matters in subsection 9(3) and 10(2) to be included in the same legislative instrument.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument. The repeal of the *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2020* (F2021C00106) (the former instrument) at Schedule 1 to this instrument is made in reliance on this power.

PURPOSE AND OPERATION

The TPS arrangements, including the TPS levy, commenced on 1 July 2012 and are designed to establish a universal tuition protection framework in respect of overseas students. This framework benefits overseas students affected by a provider default, by providing students with placement options or refunds where placement is not available. The arrangements are also designed to protect the considerable investment international students make in an Australian education, and to protect and enhance Australia's reputation as a destination of choice for international students.

Under Part 2 of the Act, all providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) on 1 January of a year are liable to pay a TPS levy for the year. The amount of the TPS levy payable is the sum of a provider's:

- administrative fee component (section 6 of the Act);
- base fee component (section 7 of the Act);
- risk rated premium component (section 9 of the Act); and
- special tuition protection component (section 10 of the Act).

The purpose of *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2021* (the Instrument) is to specify a method for working out the amount payable by all non-exempt CRICOS registered providers for the risk rated premium and special tuition protection components of the TPS levy. A non-exempt provider is any CRICOS registered provider that is not exempted by the Minister under paragraph 12(b) of the Act from paying the risk rated premium component of the TPS levy.

In recognition of the significant impact of the COVID-19 pandemic on the sector, the TPS Director has set both components at 0% for 2022.

The administrative fee and base fee components are determined in a legislative instrument made by the Minister and are not dealt with in this Instrument.

The Overseas Student Tuition Fund

The TPS levy is payable into the Overseas Student Tuition Fund (the Fund), which is established under section 52A of the ESOS Act. The Fund is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

The TPS Director is accountable for the appropriate and sustainable management of the Fund. This Instrument assists the TPS Director in exercising functions under the ESOS Act by maintaining a high level of student protection and ensuring sufficient funds are credited to the Fund to refund or place students in the event of provider closures.

Risk rated premium component of the TPS levy

Under subsection 9(3) of the Act, before the beginning of each year, the TPS Director must, by legislative instrument, specify the following elements of the risk rated premium component of the TPS levy:

- a) percentage for that year;
- b) one or more risk factors that reflect the risk of calls being made on the Fund; and
- c) for each risk factor, the increase factor by which the specified percentage for that year is multiplied.

These three elements allow the risk components for each risk factor to be calculated.

The specified percentage for the risk rated premium in 2022 is 0%, which is lower than the percentage that applied in 2021 (0.04%). While the percentage is set at 0%, paragraph 9(3)(b) of the Act requires the TPS Director specify one or more risk factors. The five risk factors to be applied in 2022 are as follows:

1. base risk factor;
2. length of operation;
3. volatility in overseas student enrolments;
4. maximum overseas source country concentration; and
5. non-compliance and registration renewal.

The risk component of a provider's levy is worked out for each risk factor in accordance with the formula set out in subsection 9(2) of the Act, which is reproduced below.

$$\left(\begin{array}{cc} \text{Specified} & \text{Increase factor} \\ \text{percentage} & \text{for the risk factor} \\ \text{for the year} & \text{for the year} \end{array} \right) \times \begin{array}{c} \text{Provider's overseas student} \\ \text{tuition fees} \\ \text{for the previous year} \end{array}$$

That is, the specified percentage for the year is multiplied by the increase factor (or weighting) for each risk factor that applies to a provider. This is then multiplied by the provider's overseas student tuition fee income for the previous year to determine the risk component for that factor.

If a provider has amalgamated registrations on CRICOS, its overseas student tuition fees should represent all fees the provider received across all courses the provider delivers at all locations.

In accordance with subsection 9(1) of the Act, if more than one risk factor is applicable for a provider for a year (as set out in subsections 7(1), 8(1), 9(1), 10(1) and 11(1) of the Instrument), the provider's risk components for the relevant factors will be added together to calculate the risk rated premium component of the TPS levy.

Given the specified percentage for 2022 is 0%, the risk rated premium for all providers for that year will be \$0.

To clarify the effect of the formula set out in subsection 9(2) of the Act, the following example has been produced and is based on the 2021 specified percentage for the year. A provider with a base, length of operation and maximum overseas source concentration risk factor would be subject to the risk component calculated below:

- risk factor 'base risk factor' with an increase factor of 1;
- risk factor 'length of operation' with an increase factor of 1; and

- risk factor for ‘maximum overseas source country concentration’ with an increase factor of 0.3.

This would be combined with tuition fee income of \$250,000, resulting in the risk components for the provider being:

$$(0.04/100 \times 1) \times 250,000 = \$100 \text{ for base risk}$$

$$(0.04/100 \times 1) \times 250,000 = \$100 \text{ for length of operation}$$

$$(0.04/100 \times 0.3) \times 250,000 = \$30 \text{ for source country concentration}$$

The risk rated component of the TPS levy would be the sum of these amounts, that is, the amount of \$230 would be payable by this provider to account for the risk rated premium component of the TPS levy.

Provider National Registration Process – national registration finalised in the period from 1 January to 31 December 2021

If a provider amalgamates two or more registrations into a single, master registration on CRICOS under the Provider National Registration Process, section 12 of the Instrument provides for the alternative recalculation of risk factors to determine the risk rated premium component of the TPS levy payable.

The following approach, ensuring no disadvantage to providers, is utilised for the calculation of the risk rated premium component of the 2022 TPS levy, in the context of the Provider National Registration process and in accordance with the Instrument:

1. Base risk factor – no change expected;
2. Length of operation – will be calculated for the resultant amalgamated registration as operating for the same period as the oldest registration date which has been amalgamated, commencing from the oldest registration and ending on 31 December 2021;
3. Volatility in overseas student enrolments - will be calculated for the resultant amalgamated registration by using the sum of overseas student enrolments for all registrations that were amalgamated into the single registration;
4. Maximum overseas students source country concentration – will be calculated for the resultant amalgamated registration by using the sum of all nationalities for all registrations that were amalgamated into the single registration;
5. Non-compliance and registration renewal – will be calculated for the resultant amalgamated registration, including late payment measure and actions under section 83 of the ESOS Act for the provider, in the year 2021.

Special tuition protection component of the TPS levy

Under subsection 10(2) of the Act, before the beginning of each year, the TPS Director must, by legislative instrument, specify a percentage for a special tuition protection component of the TPS levy for that year. Subsection 10(3) of the Act provides that the percentage specified can be zero.

A registered provider's special tuition protection component for a year is worked out in accordance with the formula in subsection 10(1) in the Act, as reproduced below.

$$\text{Specified percentage for the year} \times \frac{\text{Provider's overseas student tuition fees for the previous year}}{\text{tuition fees for the previous year}}$$

The Explanatory Memorandum to the Education Services for Overseas Students (TPS Levies) Bill 2011, explains that the purpose of subsection 10(2) – the special tuition protection component – is to build additional insurance in the Fund. This component is expressed as a percentage of overseas student tuition fee income, as determined by the TPS Director following advice of the TPS Advisory Board (the Board).

The specified percentage rate for the special tuition protection component for 2022 is zero.

REGULATORY IMPACT

The regulatory impact of the introduction of the TPS levy and its four components, including the risk rated premium component and special tuition protection component to which this Instrument relates, was considered in the ESOS (Tuition Protection Service and other related measures) Regulatory Impact Statement (RIS) which was assessed as adequate by the Office of Best Practice Regulation (OBPR) on 2 February 2012. OBPR also confirmed this Instrument is machinery in nature and has no additional regulatory impact, and therefore no RIS is required (OBPR reference 25749).

FINANCIAL IMPACT

This Instrument will not result in any revenue in 2022 for the risk rated premium component of the TPS levy.

In determining the matters relevant to the calculation of the risk rated premium component and special tuition protection component of the TPS levy, the TPS Director considered not only the sustainability of the Fund, but also the reality of the economy-wide ramifications and impact of the COVID-19 pandemic on businesses and education in Australia. The TPS Director's focus and intention in determining those matters was on supporting Australian businesses.

COMMENCEMENT

This Instrument commences on 31 December 2021 and repeals the former instrument (F2021C00106) on 1 January 2022.

CONSULTATION

Consultation with the TPS Advisory Board

Under subsection 11(2) of the Act, in making an instrument, the TPS Director must have regard to any advice of the Board in relation to the instrument, and the sustainability of the Fund.

The Board is appointed by the Minister under section 55D of the ESOS Act (taking into account the membership specifications set out in section 55C). The Board currently comprises seven non-government sector representatives, selected on the basis of their qualifications and experience in the sector, and five government representatives.

In addition to considering any advice of the Board, in determining the risk rated premium and special tuition protection components of the TPS levy, under subsection 11(3) of the Act, the TPS Director may have regard to any other matters he or she considers appropriate.

The TPS Director works extensively with the Australian Government Actuary (AGA) in determining the risk factors and increase factors of the risk rated premium component of the TPS levy. In its advice to the TPS Director dated 12 November 2021, the Board noted it had considered a number of issues including the strategic risk environment, the advice of the AGA, the views of the regulators (the Australian Skills Quality Authority and Tertiary Education Quality and Standards Agency) and industry peak bodies, the impact of the COVID-19 pandemic on the sector and the quantum of funds required for the long-term sustainability of the Fund.

In recognition of the significant impact of the COVID-19 pandemic on the sector, the Board recommended a number of changes to the risk rated premium component for 2021, including temporarily changing the specified percentage for the risk rated premium component from 0.07 per cent to 0.04 per cent, to target a lower collection amount for 2021.

The Board recommended the specified percentage, risk factors and increase factors remain the same for 2022, in recognition of the ongoing impact of the COVID-19 pandemic on the sector.

The Board also noted that the TPS Director, in consultation with relevant Minister, may consider additional levy relief for international education providers in light of the impact of the pandemic. The Board recognised that any such relief, including not collecting the levy in 2022, would not endanger the balance of the Fund.

Supplementary process requirements

In order to work out the total amount of TPS levy owed, registered providers are required under section 26 of the ESOS Act to enter the total of their overseas student tuition fee

income for the previous calendar year into the specified field in the Provider Registration and International Student Management System (PRISMS).

Tuition fees is defined at section 7 of the ESOS Act. If a registered provider does not provide its overseas student tuition fees for the previous year by the due date, the ESOS agency may take action under Division 1 of Part 6 of the ESOS Act against the registered provider.

Before the TPS Director makes a legislative instrument under subsections 9(3) and 10(2) of the Act, the Treasurer must approve the legislative instrument in writing, pursuant to subsection 11(4) of the Act. The Treasurer approved the Instrument on 17 December 2020.

Consultation with regulators and peak bodies

In finalising its advice and recommendations, and consistent with its previous practice, the Board consulted with international education stakeholders and representatives of the two national regulatory bodies: the Australian Skills Quality Authority and the Tertiary Education Quality and Standards Agency.

On 29 October 2020, the Board provided draft recommendations to the TPS Director for the 2022 TPS levy settings. The Board's draft advice was posted on the TPS website (<https://tps.gov.au>) on 6 October 2021, inviting feedback from all CRICOS registered providers on the proposed settings of the levy.

In making this Instrument, the TPS Director has had regard to the Board's advice.

Consistent with previous practice, the TPS Director also consulted on the Board's recommendations. The TPS Director wrote to all international education peak bodies inviting them to provide comments on the proposed levy settings. A news item was also posted on the TPS website inviting feedback from industry. The feedback was taken into consideration in finalising the settings for the 2022 TPS levy.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2021

The *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2021* (the Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Tuition Protection Service (TPS) arrangements, including the TPS levy, commenced on 1 July 2012 and are designed to establish a universal tuition protection framework in respect of overseas students. This framework benefits overseas students affected by a provider default, by providing students with placement options or refunds where placement is not available. The arrangements are also designed to protect the considerable investment international students make in an Australian education, and to protect and enhance Australia's reputation as a destination of choice for international students.

Under Part 2 of the *Education Services for Overseas Students (TPS Levies) Act 2012* (the Act), all providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) on 1 January of a year are liable to pay a TPS levy for the year. The amount of the TPS levy payable is the sum of a provider's:

- administrative fee component (section 6 of the Act);
- base fee component (section 7 of the Act);
- risk rated premium component (section 9 of the Act); and
- special tuition protection component (section 10 of the Act).

The purpose of the Instrument is to specify a method for working out the amount payable by all non-exempt CRICOS registered providers for the risk rated premium and special tuition protection components of the TPS levy. A non-exempt provider is any CRICOS registered provider that is not exempted by the Minister under paragraph 12(b) of the Act from paying the risk rated premium component of the TPS levy.

In recognition of the significant impact of the COVID-19 pandemic on the sector, the TPS Director has set both components at 0% for 2022.

The administrative fee and base fee components are determined in a legislative instrument made by the Minister and are not dealt with in this Instrument.

The Overseas Student Tuition Fund

The TPS levy is payable into the Overseas Student Tuition Fund (the Fund), which is established under section 52A of the ESOS Act. The Fund is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

The TPS Director is accountable for the appropriate and sustainable management of the Fund. This Instrument assists the TPS Director in exercising functions under the ESOS Act by maintaining a high level of student protection and ensuring sufficient funds are credited to the Fund to refund or place students in the event of provider closures.

Human rights implications

The Instrument engages the right to education.

Right to education

The Instrument engages the right to education, contained in Article 13 of *the International Covenant on Economic, Social, and Cultural Rights*, insofar as it relates to the provision of high-quality education services to international students by education service providers registered under the *Education Services for Overseas Students Act 2000* (ESOS Act).

To the extent that the right to education is engaged, this right is promoted by the Instrument.

The Australian Government has overarching responsibility for protecting the reputation of Australia's education and training industry and supports the capacity of the international education industry to provide high quality education and training services. Under the ESOS Act, the TPS Director delivers this assistance to international students by placing students in an alternative course of study or refunds them where there is no suitable alternative course.

The Instrument will enhance the right to education by ensuring that the TPS Director specifies a method for working out the amount payable by all non-exempt Commonwealth Register of Institutions and Courses for Overseas Students registered providers for the risk rated premium and special tuition protection components of the TPS levy, after having regard to the advice of the TPS Advisory Board and the sustainability of the Overseas Students Tuition Fund (the Fund).

Through setting the risk rated premium and special tuition protection components at zero, the Instrument will align with the Government decision to also waive the administrative fee and base fee components of the TPS levy to provide relief to the international education sector, in light of the ongoing impact of the COVID-19 pandemic. In making the Instrument, the TPS director has taken advice from the Australian Government Actuary which indicates that the Fund will continue to be viable and remain within the target range of \$35 million to \$60 million, despite the reduction to the 2022 TPS levy.

This will enable providers to continue operating to provide education to overseas students, while also having regard to the sustainability of the Fund.

Conclusion

The Instrument is compatible with human rights because it promotes the protection of human rights.

Acting TPS Director

EDUCATION SERVICES FOR OVERSEAS STUDENTS (TPS LEVIES) (RISK RATED PREMIUM AND SPECIAL TUITION PROTECTION COMPONENTS) INSTRUMENT 2021

EXPLANATION OF PROVISIONS

PART 1—INTRODUCTION

Section 1: Name

1. This section specifies the name of the instrument as the *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2021* (the Instrument).

Section 2: Commencement

2. This section sets out the commencement dates of the Instrument. Parts 1 to 3 of the Instrument commence on 31 December 2021 and Schedule 1 of the Instrument, which repeals the *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2020* (F2021C00106) (the former instrument) commences on 1 January 2022.

Section 3: Authority

3. The Instrument is made by the TPS Director under sections 9 and 10 of the *Education Services for Overseas Students (TPS Levies) Act 2012* (the Act).

Section 4: Definitions

4. This section provides definitions for terms used in the Instrument.
5. The annual registration charge and entry to market charge imposed by the *Education Services for Overseas Students (Registration Charges) Act 1997* (ESOS (Registration Charges) Act) will be repealed on 1 January 2022.
6. The definitions of *annual registration charge* and *entry to market charge* in the Instrument refer to those charges as they existed in the ESOS (Registration Charges) Act, prior to the repeal of the relevant provisions on 1 January 2022.
7. Compilation No. 11 of the ESOS (Registration Charges) Act (C2016C00773) includes provisions imposing the annual registration charge and entry to market charge.
8. *Risk management* is defined for the purposes of item 6 of subsection 11(2) of the Instrument.
9. Item 6 provides that an increase factor applies to a provider where the provider applies for renewal of registration and, due to *risk management*, is renewed for a period less than the maximum period allowed. The maximum period allowed under the *Education Services for Overseas Students Act 2000* (ESOS Act) is seven years.

10. The definition of *risk management* ensures that providers who are renewed for a period less than the maximum period allowed are not penalised if the shorter renewal is for administrative purposes. Only providers who are renewed for a shorter period because the ESOS agency considers there are risks involved with a longer renewal period are subject to the increase factor of 1.0 at item 6 of subsection 11(2). This will only be attributed to providers who, due to their risk profile, are given shortened registration renewals.

Section 5: Schedules

11. This section clarifies that Schedule 1 is effective on its terms. That is, to repeal the former instrument (F2021C00106).

PART 2—RISK FACTORS FOR RISK RATED PREMIUM COMPONENT

Section 6: Risk rated premium component

12. This section sets out the risk rated premium component of the TPS levy.
13. Subsection 6(1) provides that 0.00% is the percentage for 2022 for the purposes of paragraph 9(3)(a) of the Act. This means that the risk rated premium component of the TPS levy for all providers for 2022 will be \$0.
14. Subsection 6(2) sets out the risk factors specified for the purposes of paragraph 9(3)(b) of the Act.
15. Each of the risk factors specified at subsection 6(2) are given a numerical value in sections 7 to 11 of the Instrument to provide the relevant increase factors used in the overall calculation of the risk rated premium component of the TPS levy.

Section 7: Risk factor – base risk factor

16. Section 7 sets out the risk factor, base risk factor, which applies to all non-exempt providers (subsection 7(1)).
17. Subsection 7(2) provides the numerical increase factor of 1.0 for the base risk factor for the purposes of paragraph 9(3)(c) of the Act.

Section 8: Risk factor – length of operation

18. Section 8 sets out the risk factor, length of operation, which applies to all non-exempt providers (subsection 8(1)).
19. Subsection 8(2) provides the numerical increase factors set out in the table for the length of operation broken down by periods of time for the purposes of paragraph 9(3)(c) of the Act.

Section 9: Risk factor – volatility in overseas student enrolments

20. Section 9 sets out the risk factor, volatility in overseas student enrolments, which applies to non-exempt providers that fulfil the criteria specified in paragraphs (a) and (b) of subsection 9(1).
21. Subsection 9(2) provides the numerical increase factors set out in the table for the volatility of overseas student enrolments broken down as a percentage base on length of operation and where the provider is an expanding provider (as determined under subsection 9(3) of the Instrument) for the purposes of paragraph 9(3)(c) of the Act.
22. Subsection 9(3) sets out the criteria for determining if a provider is an expanding provider.
23. Subsections 9(4) to 9(5) provide the formulae to work out the percentage of a registered provider's volatility in overseas student enrolments. The resulting

percentage is used to determine which numerical increase factor applies to the provider under subsection 9(2).

Section 10: Risk factor – maximum overseas source country concentration

- 24. Section 10 sets out the risk factor, maximum overseas source country concentration, which applies to non-exempt providers that fulfil the criteria specified in subsection 10(1).
- 25. Subsection 10(2) provides the numerical increase factors set out in the table for the maximum overseas source country concentration broken down as a percentage for the purposes of paragraph 9(3)(c) of the Act.
- 26. Subsection 10(3) provides the formula to work out the maximum overseas source country concentration percentage and defines the terms ‘largest number of overseas student enrolments for a country’ and ‘total number of overseas student enrolments’.

Section 11: Risk factor – non-compliance and registration renewal

- 27. Section 11 sets out the risk factor, non-compliance and registration renewal, which applies to all non-exempt providers (subsection 11(1)).
- 28. Subsection 11(2) provides the numerical increase factors set out in the table for non-compliance and registration renewal for the purposes of paragraph 9(3)(c) of the Act.
- 29. The increase factor is set out in the table under subsection 11(2) subject to subsection 11(3). The factor will apply if a registered provider has a weighted late payment measure, had action mentioned in section 83 of the ESOS Act taken against it in 2020 or if the provider applied under section 10D of the ESOS Act to renew its registration and, for risk management reasons, the period of registration set out in the notice given in 2020 is less than the maximum period allowed.
- 30. The table is intended to operate on the basis that only one of items 1-4 can apply (given that a provider can only have only one late payment measure, depending on whether, and how late, it has paid its charges and levies in the past), but that items 5 and 6 could apply as well (depending on whether compliance action was taken against the provider under section 83 of the ESOS Act, or whether the provider was renewed for less than the maximum period due to risk management). This means that a provider may have an applicable factor in column 3 for one, two or three items (that is, one of items 1-4, and possibly also the factor that applies for items 5 and/or 6).
- 31. In view of this, subsection 11(3) provides that where more than one item in the table at subsection 11(2) applies, the increase factor is the sum of the factors in column 3. For example, if a registered provider has a weighted late payment measure of 30 days or more (item 1), had action mentioned in section 83 of the ESOS Act taken

against it in 2020 (item 5) and also applied under section 10D of the ESOS Act to renew its registration and, for risk management reasons, the period of registration in the notice is less than the maximum period allowed (item 6), then the increase factor would be 4 (2.0 plus 1.0 plus 1.0).

32. Subsection 11(4) provides the formula to work out the weighted late payment measure (paragraphs (a) to (c)), and defines the terms 'ARC', 'EMC', and 'TPSL'.

Section 12: Recalculation of risk factors when registrations amalgamated and national registration on CRICOS is finalised during 2021

33. Section 12 sets out the recalculation of risk factors applying when a provider amalgamates 2 or more registrations on the Commonwealth Register of Institutions and Courses for Overseas Students into a single registration through the national registration process in 2021 (subsection 12(1)).
34. Paragraph 12(2)(a) provides for the recalculation of the risk factor, length of operation. The recalculated risk factor applies to the resultant amalgamated registration.
35. Paragraph 12(2)(b) provides for the recalculation of the risk factor, volatility in overseas student enrolments, but specifies that the number of overseas student enrolments for a year is the sum of all student enrolments for all registrations.
36. Paragraph 12(2)(c) provides for the recalculation of the risk factor, maximum overseas students source country concentration, but specifies that the sum for all registrations must be used for the number of enrolments for that overseas source country and for the total number of enrolments.
37. Paragraph 12(2)(d) provides for the recalculation of the risk factor non-compliance and registration renewal. The recalculated risk factor applies to the resultant amalgamated registration.
38. Paragraph 12(2)(e) provides that the overseas student's tuition fee income for the 2021 year is to be calculated as the sum of the overseas students' tuition fee income for the courses in relation to all registrations that were amalgamated into the single registration.

PART 3 – SPECIAL TUITION PROTECTION COMPONENT

Section 13: Special tuition protection component

39. Section 13 sets the specified percentage of the special tuition protection component for 2021 as zero for the purposes of subsection 10(2) of the Act.

SCHEDULE 1—REPEALS

Item 1: the whole of the instrument

40. Schedule 1 to the Instrument repeals the former instrument from 1 January 2022.