

1993

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Education and Training)

**Education Services for Overseas Students
(Registration and Regulation of Providers)
Bill 1993**

TABLE OF PROVISIONS

Section

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Binding the Crown
5. Register

PART II—APPROVALS

6. Offences
7. Non-government schools, government schools and public tertiary institutions
8. Applications for approval—private providers
9. Grant of approval—private providers
10. Variation of approval—private providers
11. Change in status of course

83013 1992/184 (T13/93)

TABLE OF PROVISIONS—continued

Section

PART III—PRIVATE PROVIDERS

Division 1—Duties

- 12. Accredited teachers
- 13. Insurance
- 14. Courses
- 15. Facilities
- 16. Student welfare
- 17. Grievance procedures

Division 2—Financial arrangements

- 18. Financial arrangements
- 19. Ability to repay
- 20. Returns and other information

Division 3—Reviews and inspection

- 21. Review of registration
- 22. Inspectors
- 23. Return of identity cards
- 24. Entry of school buildings and powers of inspection
- 25. Effect of a suspension

PART IV—RELATIONSHIP TO COMMONWEALTH ACT

- 26. Advising Commonwealth
- 27. Suspension or cancellation by Commonwealth

PART V—MISCELLANEOUS

- 28. Application for enrolment
- 29. Advertising
- 30. Registrable particulars
- 31. Notice of decision
- 32. Review by Tribunal
- 33. Power of Minister to determine fees
- 34. Corporations—penalties
- 35. Evidentiary certificate
- 36. Conduct of directors, servants and agents
- 37. Regulations

1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Education and Training)

**Education Services for Overseas Students
(Registration and Regulation of Providers)
Bill 1993**

**A BILL
FOR
An Act to regulate providers of courses to overseas
students**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 **1.** This Act may be cited as the *Education Services for Overseas Students (Registration and Regulation of Providers) Act 1993*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

5 (3) If a provision referred to in subsection (2), other than section 6, has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Interpretation

3. In this Act, unless the contrary intention appears—

10 “accredited” means accredited—

- (a) by the administrative head; or
- (b) under the National English Language Intensive Courses for Overseas Students Accreditation Scheme;

“approved” means approved under this Act;

15 “Commonwealth Act” means the *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act 1991* of the Commonwealth;

“course” means a course of education or training;

20 “determined fee” means the fee determined by the Minister under section 33 for the purposes of the provision in which the expression occurs;

“intending overseas student” means a person who wishes or proposes to undertake a course provided in the Territory and for the purpose of undertaking the course requires—

- 25 (a) a visa issued under regulations under the *Migration Act 1958* of the Commonwealth that permits him or her to travel to Australia for the purpose of undertaking the course; or
- 30 (b) a temporary entry permit granted under regulations under the *Migration Act 1958* of the Commonwealth that permits him or her to remain in Australia while undertaking the course;

“overseas student” means a person who has—

- 35 (a) a visa issued under regulations under the *Migration Act 1958* of the Commonwealth that permits him or her to travel to Australia for the purpose of undertaking a course provided in the Territory; or

(b) a temporary entry permit granted under regulations under the *Migration Act 1958* of the Commonwealth that permits him or her to remain in Australia while undertaking a course provided in the Territory;

5 “principal executive officer”, in relation to a provider that is not a natural person, means the person who has executive responsibility for the operation of the provider;

“private provider” means a provider approved under paragraph 9 (1) (a);

10 “provider” means an institution or other body or person that provides or proposes to provide courses to overseas students in the Territory;

“register” means the ACT Register of Institutions Providing Education and Training for Overseas Students established by subsection 5 (1);

“registrable particulars” means particulars prescribed by section 30.

15 **Binding the Crown**

4. (1) This Act binds the Crown.

(2) Nothing in this Act renders the Crown liable to be prosecuted for an offence.

Register

20 5. (1) The administrative head shall keep for the purposes of this Act a register to be known as the ACT Register of Institutions Providing Education and Training for Overseas Students.

(2) The administrative head shall arrange for the register to be available for public inspection at all reasonable times.

25 **PART II—APPROVALS**

Offences

6. (1) A provider shall not—

(a) provide a course to an overseas student;

30 (b) make an offer to an intending overseas student to provide a course to that student;

(c) invite an intending overseas student to undertake, or to apply to undertake a course; or

- (d) hold itself out as able or willing to provide a course to overseas students;

unless approved in respect of the course.

Penalty: \$5,000 or imprisonment for 6 months, or both.

- 5 (2) It is a defence to a prosecution for an offence against paragraph (1) (d), in relation to a course, if the defendant proves that—

- (a) the conduct that would, apart from this subsection, constitute the offence was only for either or both of the following purposes:

- 10 (i) carrying out surveys and other investigations to assess the demand for the course;

- (ii) negotiating with another provider in connection with designing or developing the course;

- (b) the defendant took reasonable steps to ensure that—

- 15 (i) any overseas student who was, or might become, interested in undertaking the course; and

- (ii) any person who might assist in providing the course;

was aware that the defendant was not an approved provider in respect of the course; and

- 20 (c) the defendant did not invite or receive any amount in respect of the course from overseas students or intending overseas students, or from their agents.

Non-government schools, government schools and public tertiary institutions

7. (1) This section applies to—

- 25 (a) non-government schools registered in accordance with Part III of the *Education Act 1937*, other than provisionally registered schools;

- (b) government schools; and

- (c) public tertiary institutions.

- 30 (2) A school or institution to which this section applies may apply for approval as a provider of specified courses to overseas students.

- (3) An application shall be—

- (a) in a form approved by the administrative head; and

(b) signed by the principal executive officer of the school or institution.

5 (4) On receiving an application in accordance with subsection (2), the administrative head shall approve the school or institution applying as a provider of specified courses to overseas students and enter the registrable particulars in the register.

(5) Where—

- 10 (a) a school has been approved under this section;
(b) at the time it was approved the school was registered under Part III of the *Education Act 1937*; and
(c) the school has ceased to be registered under that Act;

the approval of that school is, by virtue of this section, withdrawn, and the administrative head shall amend the register accordingly.

(6) Where—

- 15 (a) a school or institution has applied for approval in accordance with subsection (2) and been approved under subsection (4); and
(b) a particular included in the application is no longer correct;

20 the principal executive officer of the school or institution shall advise the administrative head in writing of the change of particulars and the administrative head shall amend the register accordingly.

Applications for approval—private providers

8. (1) An institution or other body or person may apply to the administrative head for approval as a provider of specified courses to overseas students.

25 (2) An application shall—

- (a) be in a form approved by the administrative head;
(b) be signed by or on behalf of the applicant; and
(c) be accompanied by the determined fee.

(3) An application shall include the following particulars:

- 30 (a) the applicants' business address;
(b) details of the applicant's educational objectives;
(c) if the applicant is a natural person—whether the applicant is an Australian citizen or a permanent resident of Australia;

- (d) if the applicant is not a natural person—whether the principal executive officer is an Australian citizen or a permanent resident of Australia;
- (e) details of the applicant's financial position;
- 5 (f) details of the courses the applicant proposes to conduct, including the number of places to be provided for overseas students and intending overseas students and the accreditation of those courses;
- (g) any prescribed particular.

Grant of approval—private providers

10 **9. (1) On receiving an application in accordance with section 8, the administrative head shall—**

- (a) approve the applicant as a provider of specified courses to overseas students;
- 15 (b) approve the applicant subject to such conditions as are reasonable and necessary for the protection of the interests of overseas students and intending overseas students; or
- (c) refuse to approve the applicant.

20 **(2) When making a decision under subsection (1), the administrative head shall consider whether the applicant is fit and proper to provide the courses specified in the application to overseas students and shall have regard to—**

- (a) the applicant's educational objectives;
- 25 (b) whether the applicant, or the principal executive officer of the applicant, is an Australian citizen or a permanent resident of Australia;
- (c) whether, in the opinion of the administrative head—
 - (i) the applicant has sufficient financial and other resources available to enable it to comply with the provisions of this Act; and
 - 30 (ii) whether the applicant understands the duties and obligations imposed on an approved provider by this Act and the Commonwealth Act; and
- (d) any other matter that the administrative head considers relevant.

35 **(3) The administrative head shall not approve an applicant if the courses offered by it or teachers employed by it are not accredited.**

(4) Where the administrative head approves an applicant under paragraph (1) (a) or (b), he or she shall enter the registrable particulars in the register.

Variation of approval—private providers

5 10. (1) A private provider may apply in writing to the administrative head for a variation of its approval.

(2) An application under subsection (1) shall—

(a) specify the manner in which the applicant wishes the approval to be varied; and

10 (b) be accompanied by—

(i) a statement supporting the proposed variation; and

(ii) the determined fee.

(3) On receipt of an application in accordance with subsection (1), the administrative head shall—

15 (a) approve the variation of the approval; or

(b) refuse to approve the variation of the approval.

(4) In determining whether or not to approve the variation of the approval, the administrative head shall have regard to the matters referred to in subsection 9 (2).

20 (5) Where the administrative head approves a variation of an approval under paragraph (3) (a), he or she shall amend the register accordingly.

Change in status of course

11. (1) If a course specified in the register ceases to be accredited—

25 (a) any provider approved with respect to the course ceases to be so approved; and

(b) if the course is the only course with respect to which a provider is approved—the provider ceases to be an approved provider.

(2) The administrative head shall amend the register to reflect the operation of subsection (1).

PART III—PRIVATE PROVIDERS

Division 1—Duties

Accredited teachers

- 5 **12.** A private provider shall not, without reasonable excuse, employ a person as a teacher unless the person is accredited.

Penalty: \$5,000 or imprisonment for 6 months, or both.

Insurance

- 10 **13.** A private provider shall not, without reasonable excuse, fail to maintain a policy or policies of insurance—
- (a) against fire for the full value of any insurable interest in any property used for the purposes of providing courses to overseas students; and
- (b) against public liability for an unlimited amount.

Penalty: \$5,000.

15 **Courses**

- 14.** A private provider shall not, without reasonable excuse, offer a course to an intending overseas student or an overseas student or conduct a course for an overseas student unless the provider is approved with respect to that course.

- 20 Penalty: \$5,000 or imprisonment for 6 months, or both.

Facilities

- 15.** A private provider shall not, without reasonable excuse, fail to provide adequate facilities and protection for the safety, health and welfare of its overseas students.
- 25 Penalty: \$5,000 or imprisonment for 6 months, or both.

Student welfare

- 30 **16. (1)** A private provider shall not, without reasonable excuse, fail to provide counselling and support services that are adequate having regard to the cultural and religious background of the overseas students attending the institution.

Penalty: \$5,000.

- (2)** For the purposes of subsection (1), a service is not adequate if it is not designed to assist with—

- (a) problems caused by cultural differences between Australia and an overseas student's home country;
- (b) personal and emotional problems;
- (c) advice and assistance on education, employment and careers; and
- 5 (d) information reasonably required by students to deal adequately with day-to-day life in the Territory.

Grievance procedures

- 10 17. A private provider shall not, without reasonable excuse, fail to establish and maintain adequate procedures by which an overseas student may formally complain and have attention given to his or her complaints by the private provider.

Penalty: \$5,000.

Division 2—Financial arrangements

Financial arrangements

- 15 18. (1) A private provider shall—
- (a) open and maintain with a bank in Australia for the purposes of this Act an account that is, or accounts each of which is, a special account;
 - 20 (b) pay into such an account any amount (other than a non-refundable amount) that is received by, or by an agent of, the provider from, or from an agent of, a person who is an overseas student or an intending overseas student; and
 - 25 (c) in respect of any special account into which an amount has been, or amounts have been, so paid in respect of a person in relation to a course or accommodation provided in relation to the course—keep a record with respect to the course or the accommodation of—
 - (i) that amount or those amounts;
 - 30 (ii) any payments out of or withdrawals from that account in respect of that person in relation to that course or accommodation; and
 - (iii) the amount remaining in the account from time to time in respect of that person in relation to that course or accommodation.

35 Penalty: \$5,000 or imprisonment for 6 months, or both.

- (2) In paragraph (1) (b)—

“non-refundable amount” means an amount—

- (a) which, under the regulations, is not refundable to the person who paid it; and
- 5 (b) in respect of which the provider gave written notice to the person who paid it, before the payment was made, stating that the amount would not be refundable to the person.

(3) The regulations may make provision for or in relation to the exemption of a specified provider or a specified class of providers from the requirements of subsection (1).

10 (4) A private provider shall not make a payment out of money standing to the credit of an account maintained under subsection (1) that is money paid in respect of a person in relation to a course or accommodation provided in relation to the course, unless the payment is made—

- 15 (a) with the written authority of the person or, in the case of a person who has not attained the age of 18 years, a parent or guardian of the person;
- (b) for the purpose of paying an amount to Medibank Private or another prescribed hospital benefits organisation that the person is required to pay;
- 20 (c) in the case of a person who has commenced the course—for the purpose of meeting so much of the cost to the provider of providing the course to the person as the regulations permit the provider to meet out of an amount or amounts paid to the provider by the person; or
- 25 (d) for the purposes of meeting the cost to the provider of providing accommodation to the person.

Penalty: \$5,000 or imprisonment for 6 months, or both.

(5) If for any reason—

- 30 (a) an overseas student or intending overseas student who proposes to undertake a course provided by a private provider does not commence the course; or
- (b) an overseas student who is undertaking a course provided by a private provider withdraws from the course before the end of the course;

35 and an amount is included in an account maintained by the provider under subsection (1) in respect of the student in relation to the course, the amount so included less any part of that amount that the provider is entitled to pay to

another person out of the account or to withdraw from the account in accordance with subsection (4) is payable by the provider to the student.

(6) Where—

- 5 (a) an overseas student or intending overseas student has paid a charge for accommodation to a private provider; and
- (b) the student has given the provider written notice that he or she no longer requires the accommodation;

the prescribed amount is payable by the provider to the student.

Ability to repay

- 10 **19. (1)** A private provider shall make and maintain such arrangements which will ensure that the provider can at all times pay amounts that are payable under subsection 18 (5) or (6).

(2) A private provider shall make available to the administrative head details of its arrangements under subsection (1).

- 15 (3) The regulations may make provision for or in relation to the exemption of a specified provider or a specified class of providers from the requirements of subsection (1).

Returns and other information

- 20 **20. (1)** A private provider shall, within 28 days after the conclusion of each financial year, give to the administrative head in respect of each special account maintained by the provider under section 18, a return that—

(a) is in the prescribed form;

(b) is signed—

- 25 (i) if the provider is a natural person—by that person or by another person authorised by the first-mentioned person to sign the return; or

(ii) otherwise—by the principal executive officer of the provider or by a person authorised by the principal executive officer to sign the return;

- 30 (c) contains the prescribed particulars in relation to transactions in respect of that account during that financial year; and

(d) is accompanied by a report by a registered company auditor stating whether, in the opinion of the auditor—

(i) the particulars in the return are correct;

- (ii) the provider has complied with subsections 18 (1) and (4);
and
 - (iii) the provider has paid all amounts payable under subsections 18 (5) and (6).
- 5 (2) If the administrative head forms a reasonable belief that a private provider may have—
- (a) failed to comply with the requirements of subsection (1);
 - (b) failed to comply with the requirements of section 18;
 - (c) failed to pay an amount payable under subsection 18 (5) or (6); or
- 10 (d) provided an annual return which contains misleading or deceptive information;

the administrative head may, by written notice given to a provider, require the provider to give the administrative head such further information as he or she specifies.

- 15 (3) The regulations may, either generally, or in relation to a particular year or particular years, make provision for or in relation to the exemption of a specified provider or a specified class of providers from all or any of the requirements of subsection (1).

Division 3—Reviews and inspection

20 **Review of registration**

21. (1) The administrative head—

- (a) shall, at intervals not exceeding 5 years; and
 - (b) may, at any time the administrative head believes on reasonable grounds that a private provider has contravened this Act;
- 25 review the private provider and shall—
- (c) confirm the approval of the private provider unconditionally;
 - (d) confirm the approval of the private provider subject to such conditions as are reasonable and necessary for the protection of the interests of overseas students and intending overseas students; or
- 30 (e) suspend the approval.

(2) When making a decision under subsection (1), the administrative head shall have regard to—

- (a) the extent to which the private provider has complied with this Act;
- (b) the likelihood of continued compliance with this Act; and

(c) whether, if the private provider were not approved and was applying for approval, it would be approved.

5 (3) The private provider shall not, without reasonable excuse, fail to supply the administrative head with such material as is reasonable and necessary to allow the administrative head to conduct a review.

Penalty: \$2,000.

10 (4) Where the approval of a provider has been suspended under paragraph (1) (e), the provider shall not, without reasonable excuse, fail to notify any overseas student or intending overseas student who has applied or been enrolled to undertake a course provided or to be provided by the provider of the suspension.

Penalty: \$1,000.

(5) Where the administrative head suspends the approval of a private provider, he or she shall give the provider written notice—

- 15 (a) specifying the grounds on which the approval was suspended; and
(b) inviting the provider to show cause within a specified period why its approval should not be withdrawn and its registration should not be cancelled.

20 (6) After the expiration of the period specified in a notice under subsection (5), and taking into consideration any representation made by the private provider, the administrative head shall—

- (a) if satisfied on reasonable grounds that the private provider should not continue to be approved—withdraw the approval of the private provider and cancel its registration; or
25 (b) in any other case—revoke the suspension of the approval.

Inspectors

22. (1) The administrative head may, by instrument, appoint persons to be inspectors for the purposes of this Act.

30 (2) An inspector shall perform such duties for the purposes of this Act as the administrative head directs.

(3) The administrative head shall issue to an inspector an identity card specifying the name and appointment of the person and on which appears a recent photograph of the person.

Return of identity cards

23. A person appointed to be an inspector shall not, without reasonable excuse, fail to return his or her identity card to the administrative head on ceasing to be an inspector.

5 Penalty: \$100.

Entry of school buildings and powers of inspection

10 24. (1) For the purposes of a review under paragraph 21 (1) (b), an inspector may enter any premises, other than residential premises, at any reasonable time, with such assistance and by such force as is necessary and reasonable, and may exercise any power under subsection (2).

(2) Where an inspector enters premises in accordance with subsection (1), he or she may—

- 15 (a) require the occupier of the premises to give the inspector his or her name and residential address;
- 20 (b) inspect the premises or any thing on the premises, including any book, document or record, that the inspector believes on reasonable grounds to be connected with a contravention of this Act;
- (c) take an extract from, or make a copy of, any book, document or record inspected;
- (d) take such photographs as the inspector believes on reasonable grounds to be necessary for the purposes of this Act;
- 25 (e) seize any thing that the inspector believes on reasonable grounds to be connected with a contravention of this Act; or
- (f) require the occupier to give the inspector such assistance as is reasonable to enable the inspector to exercise his or her powers under this section.

30 (3) An inspector who enters premises in accordance with subsection (1), is not authorised to remain on the premises if, on request by the occupier or person apparently in charge of the premises, the inspector does not produce his or her identity card.

(4) Where an inspector seizes a thing under paragraph (2) (e), he or she shall give a receipt for that thing to its owner or the person who had possession, custody or control of it immediately before it was seized.

35 (5) A person shall not, without reasonable excuse, contravene a requirement made of him or her under this section.

Penalty (for a contravention of subsection (5)): \$5,000 or imprisonment for 6 months, or both.

Effect of a suspension

25. While the approval of a private provider is suspended—

- 5 (a) the provider shall not do any act or thing for the purpose of recruiting or enrolling intending overseas students in respect of courses provided or to be provided by the provider in the Territory;
- (b) the provider shall not solicit or accept any money from an overseas student or an intending overseas student in respect of a course provided or to be provided by the provider in the Territory; and
- 10 (c) if an overseas student or an intending overseas student has applied or been enrolled to undertake a course provided or to be provided by the provider in the Territory—the provider shall not permit the student to commence the course.

Penalty: \$5,000 or imprisonment for 6 months, or both.

15 **PART IV—RELATIONSHIP TO COMMONWEALTH ACT**

Advising Commonwealth

20 26. (1) The administrative head shall, as soon as practicable after approving a provider, provide to the Secretary such particulars relating to the provider as are required to be entered in the Commonwealth Register of Institutions and Courses for Overseas Students by the Secretary.

(2) Where the administrative head amends the register under subsection 7 (5), (6), 10 (5) or 11 (2), he or she shall notify the Secretary of the amendments.

(3) Where the administrative head—

- 25 (a) suspends the approval of a provider under paragraph 21 (1) (e);
- (b) withdraws the approval of a provider under paragraph 21 (6) (a);
or
- (c) revokes a suspension under paragraph 21 (6) (b);

30 the administrative head shall notify the Secretary that he or she has taken that action.

(4) In this section—

“Secretary” means the Secretary to the Department of State of the Commonwealth responsible for administering the Commonwealth Act.

Suspension or cancellation by Commonwealth

27. (1) Where a provider is registered under the Commonwealth Act in respect of the Territory and that registration is suspended or cancelled by the Commonwealth—

- 5 (a) the approval of the provider under this Act shall be taken to be suspended; or
- (b) the approval of the provider shall be taken to be withdrawn and its registration cancelled;

as the case requires.

10 (2) Subsection (1) does not apply to a suspension or cancellation of registration under the Commonwealth Act if it occurred as a consequence of a suspension or cancellation of registration under this Act.

(3) Where—

- 15 (a) the registration of a provider has been suspended or cancelled under the Commonwealth Act;
- (b) as a result of that suspension or cancellation, the approval of the provider has been suspended or its approval has been withdrawn and its registration cancelled under subsection (1); and
- 20 (c) as the result of an appeal against the decision under the Commonwealth Act to suspend or cancel the registration, the suspension or cancellation under that Act is no longer effective;

then, by force of this section, the suspension of the provider's approval is revoked or the provider is approved and registered (as the case requires).

PART V—MISCELLANEOUS

25 Application for enrolment

28. (1) A private provider shall not supply to any person an application form to attend a course for which the provider is an approved provider unless the form is attached to a prospectus.

30 (2) A private provider shall not provide to an overseas student an approved course unless—

- (a) the student applies for enrolment on an application form referred to in subsection (1); and
- (b) the enrolment form is signed by the student.

35 (3) An application form shall contain the following information in simple, clear language:

- 5
- (a) the title or titles of any course in which the student may enrol using the form;
 - (b) that the application form, once signed by the student and on behalf of the private provider, will form a contract between the student, parent or guardian (as the case requires) and the private provider;
 - (c) an itemised list of the costs of tuition fees;
 - (d) an itemised list of any fees or charges additional to those referred to in paragraph (c) for which the student will be liable;
 - 10 (e) the nature of the qualification that the student will receive on completion of the course;
 - (f) any conditions under which a refund or partial refund will be given.
- (4) A prospectus shall contain—
- 15
- (a) a copy of the proposed contract between the intending overseas student and the private provider;
 - (b) a statement as to the accreditation status of the courses offered;
 - (c) a description of the qualification awarded by the provider in relation to each course of study and the status of the qualification within relevant sectors of employment or public education;
 - 20 (d) a statement of all fees and costs payable to the private provider for the duration of the course;
 - (e) an estimate of any costs related to the course that are additional to those referred to in paragraph (d) and are likely to be incurred during the course;
 - 25 (f) an indication of the cost of living in the Territory;
 - (g) an indication of the type of accommodation available in the Territory;
 - (h) details of the counselling and support services that will be provided to students attending the course;
 - 30 (i) the level of English language proficiency required to complete the course; and
 - (j) details of any prerequisites to the course.
- (5) A reference in paragraphs (2) (b) and (3) (b) to a form being signed by a student shall, where the student has not attained the age of 18 years, be read as a reference to the form being signed by his or her parent or guardian.
- 35

Advertising

29. A private provider shall not publish, or cause to be published, by any means whatever any advertisement with respect to a course provided by it unless the information contained in the advertisement is consistent with the information contained in a prospectus referred to in subsection 28 (4).

Penalty: \$5,000.

Registrable particulars

30. The following particulars with respect to an approved provider are registrable:

- 10 (a) its name;
- (b) its business address;
- (c) if it is not a natural person—the name of its principal executive officer;
- 15 (d) the particulars of each course it has been approved to provide, including—
 - (i) the number of places available for overseas students and intending overseas students;
 - (ii) the duration of the course in weeks;
 - (iii) the tuition fee charged by the provider for the course;
 - 20 (iv) the nature of the qualification awarded on completion of the course; and
 - (v) any prerequisites to the course;
- (e) a statement of its educational objectives;
- (f) any conditions to which the approval of the provider is subject;
- 25 (g) any prescribed particular.

Notice of decision

31. (1) Where the administrative head—

- (a) approves an applicant as a provider of specified courses to overseas students subject to conditions under paragraph 9 (1) (b)
- 30 (b) refuses to approve an applicant as a provider of specified courses to overseas students under paragraph 9 (1) (c);
- (c) refuses to approve the variation of an approval under paragraph 10 (3) (b);

- (d) confirms the approval of a private provider subject to conditions under paragraph 21 (1) (d); or
- (e) withdraws the approval of a private provider and cancels its registration under paragraph 21 (6) (a);
- 5 the administrative head shall give notice in writing of the decision to the applicant or private provider, as the case requires.
- (2) A notice under subsection (1) shall—
- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the
10 Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that
15 Act.
- (3) The validity of a decision referred to in subsection (1) shall not be taken to have been affected by a failure to comply with subsection (2).

Review by Tribunal

- 20 32. Application may be made to the Tribunal for a review of a decision referred to in subsection 31 (1).

Power of Minister to determine fees

33. The Minister may, by notice in writing published in the *Gazette*, determine fees for the purposes of this Act.

Corporations—penalties

- 25 34. Where a body corporate is convicted of an offence, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for the offence.

Evidentiary certificate

- 30 35. (1) In proceedings for an offence against this Act, a certificate signed by the administrative head stating that a provider is not approved with respect to a specified course is evidence of the matter stated.
- (2) For the purposes of subsection (1), a certificate that purports to be
35 signed by the administrative head shall, unless the contrary is proved, be taken to have been so signed.

Conduct of directors, servants and agents

36. (1) Where, for the purposes of this Act, it is necessary to establish the state of mind of a body corporate or a natural person in relation to particular conduct, it is sufficient to show—

- 5 (a) that a director, servant or agent of the body, or a servant or agent of the person, had that state of mind; and
- (b) that the conduct was engaged in by that director, servant or agent within the scope of his or her actual or apparent authority.

10 (2) A reference in subsection (1) to the state of mind of a body or person includes a reference to—

- (a) the knowledge, intention, opinion, belief or purpose of the body or person; and
- (b) the body's or person's reasons for the intention, opinion, belief or purpose.

15 (3) Any conduct engaged in on behalf of a body corporate or a natural person by a director, servant or agent of the body, or a servant or agent of the person, within the scope of his or her actual or apparent authority is to be taken, for the purposes of this Act, to have been engaged in also by the body or person unless the body or person establishes that reasonable precautions were taken and due diligence was exercised to avoid the conduct.

20

 (4) Where—

- (a) a natural person is convicted of an offence against this Act; and
- 25 (b) the person would not have been convicted of the offence if subsections (1) and (3) had not been enacted;

the person is not liable to be punished by imprisonment for that offence.

30 (5) A reference in this section to a director of a body corporate is to be read as including a reference to a member of a body corporate incorporated for a public purpose by a law of the Territory, the Commonwealth, a State or another Territory.

 (6) A reference in this section to engaging in conduct is to be read as including a reference to failing or refusing to engage in conduct.

Regulations

35 37. The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or

- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.