

1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

**EDUCATION SERVICES FOR OVERSEAS STUDENTS
(REGISTRATION AND REGULATION OF PROVIDERS) REGULATIONS**

EXPLANATORY MEMORANDUM

Circulated by Authority of the Minister for Education and Training

Bill Wood MLA

EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION AND REGULATION OF PROVIDERS) REGULATIONS

The Education Services for Overseas Students (Registration and Regulation of Providers) Regulations (the Regulations) are made under section 45 of the *Education Services for Overseas Students (Registration and Regulation of Providers) Act 1994* (the Act). The Act regulates who may provide education services to overseas students and the manner in which they may do so. In particular, the Act provides for specific controls on the way in which moneys from students are to be dealt with by private providers.

The Act provides for certain matters in relation to applications for approval as a private provider and trust accounts to be prescribed by Regulation. These Regulations prescribe those matters.

Details of the Regulations are as follows.

Regulation 1 provides for the method of citation of the Regulations.

Regulation 2 provides that the regulations commence on the day on which section 3 of the Act commences. The commencement of the Regulations is linked to the commencement of the Act because of the direct reliance on the Regulations by the Act in relation to certain matters.

Regulation 3 provides that the references to "the Act" in the Regulations are references to the *Education Services for Overseas Students (Registration and Regulation of Providers) Act 1994*.

Regulation 4 sets out the prescribed particulars for the purposes of paragraph 7(3)(g) of the Act. Section 7 of the Act provides that an application may be made to the Chief Executive for approval as a private provider. Subsection 7(3) specifies the particulars that must be included in an application and this regulation further specifies the detail of those particulars.

Regulation 5 sets the prescribed percentage for the purposes of paragraph 16(1)(b) of the Act. Private providers are required by section 16 to pay course

moneys received into a trust account. Providers are only required to deposit a certain percentage of course moneys that are tuition fees into a trust account. This regulation provides that the percentage is 80%.

Regulation 6 provides for the manner in which a private provider may withdraw course moneys that are tuition fees from a trust account. The purpose of this regulation and regulation 7 is to ensure that the withdrawal of moneys from a trust account does not compromise the ability of a private provider to meet any refund obligations. Under this regulation the provider may withdraw up to 45% of the tuition fees on the day on which the course commences and the remainder of the tuition fees may only be withdrawn on a pro rata basis as the course is provided to the student.

Regulation 7 provides for the manner in which course moneys other than tuition fees may be withdrawn from a trust account. The effect of this regulation is that course moneys that are paid for a specific purpose may only be withdrawn for that purpose.

Regulation 8 provides that where a private provider becomes entitled to withdraw money from a trust account then the provider may also withdraw or pay out any interest earned on that amount while it was held in the trust account.

Regulation 9 provides that the prescribed form for the purposes of paragraph 22(1)(a) of the Act is as set out in the Schedule to the Regulations. Section 22 of the Act requires a private provider to provide the Chief Executive with a return in respect of each trust account maintained by the private provider within 28 days after the conclusion of a reporting period. This return is required by paragraph 22(1)(a) of the Act to be in a prescribed form and the Schedule to these Regulations sets out that form.