



Australian Capital Territory

# **Education Services for Overseas Students (Registration and Regulation of Providers) Regulations**

**Subordinate Law No. 48 of 1994<sup>1</sup>**

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The Australian Capital Territory Executive, in accordance with section 5 of the *Subordinate Laws Act 1989*, makes the following Regulations under the *Education Services for Overseas Students (Registration and Regulation of Providers) Act 1994*.

Dated 21 December 1994.

**BILL WOOD**  
Minister

**TERRY CONNOLLY**  
Minister

**Citation**

1. These Regulations may be cited as the Education Services for Overseas Students (Registration and Regulation of Providers) Regulations.

**Commencement**

2. These Regulations commence on the day on which section 3 of the Act commences.

**Interpretation**

3. In these Regulations, unless the contrary intention appears—

“the Act” means the *Education Services for Overseas Students (Registration and Regulation of Providers) Act 1994*.

**Prescribed particulars**

4. For the purposes of paragraph 7 (3) (g) of the Act, the following particulars are prescribed:

- (a) if the applicant is a corporation—a description of the applicant’s corporate structure;
- (b) a business plan in relation to the first 3 years of the applicant’s operations, including—
  - (i) a description of the applicant’s marketing strategy;
  - (ii) a risk analysis of cash flows; and
  - (iii) projections of student numbers and earnings;
- (c) a statement of solvency including the following:
  - (i) assets;
  - (ii) liabilities;
  - (iii) contingencies and commitments;
- (d) an audited financial statement for the previous financial year;
- (e) details in relation to—
  - (i) any previous bankruptcy of the applicant;
  - (ii) any previous insolvency of the applicant;
  - (iii) any proposal to enter or entry into a compromise or arrangement by the applicant of a kind specified in Part 5.1 of the Corporations Law; or
  - (iv) any appointment in relation to the applicant, any of its assets or any part of its affairs or undertakings, of a liquidator, receiver, official manager or receiver and manager;

- (f) a letter of acceptance of audit responsibility from the person appointed as auditor for the applicant, together with evidence that the person is a registered company auditor within the meaning of the Corporations Law.

### **Prescribed percentage**

5. For the purposes of paragraph 16 (1) (b) of the Act, the prescribed percentage is 80%.

### **Permitted withdrawals—tuition fees**

6. Where a student or a person acting on behalf of the student pays tuition fees into a trust account for a course to be provided to the student by a private provider, the provider may withdraw or pay out—

- (a) on or after the day on which the course commences—an amount not exceeding 45% of the tuition fees; and
- (b) not less than 1 week after the last withdrawal under paragraph (a) or this paragraph—an amount not exceeding the amount of tuition fees for that part of the course that has been completed by the student since that last withdrawal.

### **Permitted withdrawals—other course money**

7. (1) Where a student or a person acting on behalf of the student pays an amount of course money (other than tuition fees) into a trust account for a specified purpose, a private provider may withdraw or pay out that amount, or part of that amount, for that purpose.

- (2) The specified purposes are the following:
  - (a) payment of the costs of accommodation or other domestic services provided to the student—
    - (i) where the student directs—to the person providing the services, the student or another specified person; or
    - (ii) where there is no such direction—not more than 3 months before the end of the period to which the expenses relate;
  - (b) payment of the costs of transporting the student to or from an airport on or after the day on which the service is provided;
  - (c) payment of the costs of health insurance for the student with Medibank Private or another prescribed hospital benefits organisation on or after the day on which payment is due;
  - (d) payment of the fees for compulsory membership of the student in a student's union or association—

- (i) in accordance with the requirements of the union or association for payment of those fees; or
  - (ii) in any other case—on or after the commencement of the course undertaken by the student;
- (e) payment of the costs of books, equipment or other materials purchased by the student for a course the student is enrolled in not more than 4 weeks before the commencement of that course by the student;
- (f) payment of an examination fee for a course the student is enrolled in—
- (i) if the examination is conducted by a person other than the private provider—in accordance with the requirements of that person for payment of the fee; or
  - (ii) in any other case—not more than 4 weeks before the examination;
- (g) payment of the costs of providing other goods or services—
- (i) on or after the day on which the goods or services are provided; or
  - (ii) on the day on which payment is due;
- whichever is the later.

#### **Permitted withdrawals—interest**

**8.** Where a private provider is entitled to withdraw or pay out an amount for a particular purpose under regulation 6 or 7, the provider may also withdraw or pay out any interest earned on that amount while that amount is held in the trust account for the same purpose.

#### **Returns and other information**

**9.** For the purposes of paragraph 22 (1) (a) of the Act, the form set out in the Schedule is prescribed.

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**SCHEDULE**

**Annual return under section 22 of the  
Education Services for Overseas Students (Registration and Regulation  
of Providers) Act 1994**

STATEMENT OF TRUST ACCOUNT FUNDS HELD ON BEHALF OF OVERSEAS  
STUDENTS FOR THE REPORTING PERIOD BEGINNING ON [INSERT DATE] AND  
ENDING ON [INSERT DATE]

Name of private provider:.....  
[if a business or company—the registered name]

ACN No. [if the provider is a company]: .....

Provider code:	Names:
.....	.....
.....	.....
.....	.....

Registered business address of provider:  
.....  
.....  
.....

**INFORMATION ABOUT TRUST ACCOUNTS MAINTAINED BY PROVIDER**

- (a) Name of each bank and bank branch at which a trust account is maintained: .....
- (b) Number of bank accounts which are trust accounts:  
.....
- (c) Name of each signatory of each bank account to which paragraph (b) relates: .....

**SCHEDULE**—continued

- (d) Total amount held in all trust accounts maintained by the provider on [date of beginning of reporting period]: \$.....
- (e) Number of course enrolments to which (d) relates: .....
- (f) Total amount held in all trust accounts maintained by the provider on [date of end of reporting period]: \$.....
- (g) Number of course enrolments to which (f) relates: .....
- (h) Total amount deposited into all trust accounts maintained by the provider during the reporting period: \$ .....
- (j) Number of course enrolments to which (h) relates: .....

I declare that the information set out in this statement is correct to the best of my knowledge.

Dated:.....

.....  
[Name of principal executive officer of provider]

.....  
[Signature of principal executive officer of provider]

**CERTIFICATION BY REGISTERED COMPANY AUDITOR(S)**

I/We certify that I/we have audited, to the extent required for the purposes of this certificate, the accounts and records of [insert name of provider] for the reporting period ending [insert date] in accordance with the Australian Auditing Standards. To the best of my/our knowledge, the particulars set out in this statement are/are not correct and [insert name of provider]:

- complies with sections 16, 24 and 26 of the Act
- does not comply with sections 16, 24 and 26 of the Act
- complies with sections 16, 24 and 26 of the Act, subject to the following qualifications:

[insert any qualifications]

Dated:.....

.....  
[Name and address of registered company auditor(s)]

**SCHEDULE**—continued

.....  
[Signature(s) of registered company auditor(s)]

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**NOTE**

**Notification**

1. Notified in the ACT Gazette on 10 January 1995.

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