

Education (Overseas Students) Regulation 2014

Explanatory Notes for SL 2014 No. 179

made under the

Education (Overseas Students) Act 1996

General Outline

Short title

Education (Overseas Students) Regulation 2014

Authorising law

Section 34 of the *Education (Overseas Students) Act 1996*

Policy objectives and the reasons for them

Under Part 7 of the *Statutory Instruments Act 1992*, the *Education (Overseas Students) Regulation 1998* (1998 Regulation) will expire on 31 August 2014. The making of the *Education (Overseas Students) Regulation 2014* (the Regulation) is required to ensure that Queensland can continue to effectively provide for the registration of providers and courses for overseas students in the Queensland school sector.

The regulatory framework for education services for overseas students is based on a cooperative model between the Commonwealth and each of the State and Territory governments. The objectives of the framework are to safeguard Australia's international reputation as a provider of high quality education and training and to protect the interests of overseas students.

The Commonwealth operates mainly under its *Education Services for Overseas Students Act 2000* (ESOS Act) and the *National Code of Practice for Providers of Education and Training to Overseas Students 2007* (National Code).

The ESOS Act requires a recommendation to the Commonwealth, by the designated authority in each State and Territory, for approval of providers of education services for overseas students and the courses they offer. The designated authority is responsible for the first stage of the registration process by facilitating the application process, assessing the merits of the application and making a recommendation to the Commonwealth that the provider is approved to provide courses to overseas students in the State.

In Queensland, the Director-General of the Department of Education, Training and Employment is the designated authority.

In 2012, regulatory changes at the Commonwealth level transferred responsibilities for the regulation of education services for overseas students in vocational education and training organisations, universities, non-university higher education providers and English language colleges, from the States and Territories to the Commonwealth's Tertiary Education Quality and Standards Agency or Australian Skills Quality Agency. Queensland is now only responsible for regulating education services for overseas students in state and non-state schools.

Under the Queensland *Education (Overseas Students) Act 1996* (EOS Act), a person prescribed under a regulation may apply for registration as a provider of education services for overseas students or for registration of a course, or to change a registration. In deciding whether to approve an application for registration of a provider or of a course, and any conditions to apply to the registration, the chief executive must apply the registration criteria prescribed under a regulation.

An application for registration as a provider, or for registration of a course, must be accompanied by the fee prescribed under a regulation. The EOS Act requires the chief executive to keep a register of registered providers and registered courses. The register must contain the information prescribed under a regulation.

Achievement of policy objectives

The *Education (Overseas Students) Regulation 2014* (the Regulation) replaces the 1998 Regulation to prescribe matters necessary for the EOS Act. The Regulation reflects recent changes to Commonwealth law relating to education services for overseas students, ensures that the Queensland legislation is in alignment with the Commonwealth legislative regime and accords with contemporary drafting practices.

Applications for registration

The Regulation provides that an application may be made by:

- a person authorised by the chief executive to provide, arrange or promote a course conducted by a State instructional institution; and
- a person authorised by the governing body of a non-state school if the non-state school intends to provide, arrange or promote a course to an overseas student.

Under the Regulation, vocational education and training organisations, universities, non-university higher education providers and English language colleges will no longer be

able to make an application for registration to the chief executive under the EOS Act. This reflects the change to the Commonwealth arrangements whereby the Commonwealth's Tertiary Education Quality and Standards Agency or Australian Skills Quality Agency are now responsible for approving these providers of education services for overseas students.

Registration criteria

The 1998 Regulation prescribed registration criteria for providers and courses. These registration criteria contained significant overlap with the National Code.

The Regulation removes duplication with the National Code by removing the registration criteria contained in the 1998 Regulation and instead providing that the registration criteria are:

- the application requirements and standards contained in the National Code;
- if an applicant or a course must be accredited, approved, registered or otherwise recognised under a law (other than the EOS Act), the applicant or the course must be so accredited, approved, registered or otherwise recognised; and
- for registration of a course that is an English Language Intensive Course for Overseas Students, the course must be accredited, endorsed or otherwise recognised by the National ELT Accreditation Scheme.

The Register

The Regulation details the information that must be contained in the register of registered providers and registered courses kept by the chief executive. The Regulation also provides that the register may contain information other than that prescribed if the chief executive considers it appropriate.

Fees

The Regulation sets out the fees that must accompany an application for registration, or renewal of registration, as a provider, and an application for registration, or renewal of registration, of a course. The Regulation also sets out the fee for an application to change the registration of a registered provider or registered course.

The amounts of the fees are the same as the 1998 Regulation.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main object of the EOS Act, contained in section 4(1), which is to ensure that education and training for overseas students is provided in an orderly and appropriate way.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Regulation will ensure that Queensland can continue to effectively regulate international education within the school sector.

There are no financial implications resulting from the making of the Regulation.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

The Queensland Catholic Education Commission and Independent Schools Queensland were consulted about the Regulation.

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