

1990

THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

EDUCATION SERVICES (EXPORT REGULATION) BILL 1990

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Employment, Education and Training,
the Hon J S Dawkins, MP)



Education Services (Export Regulation) Bill 1990

OUTLINE

The purpose of this Bill is to provide legislation to regulate the marketing and provision of education services to the overseas market through the registration of institutions and courses.

Visas for study purposes will only be issued to students wishing to come to institutions and courses included in the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). The conditions for inclusion are approval by the relevant State or Territory education authority, the establishment of satisfactory financial arrangements in the form of trust funds to protect advance payments made by students prior to commencement of studies in Australia, and, when requested, the provision of information concerning the operation of the institution and/or its courses.

Suspension of registration will require an institution to cease to market its services, recruit, enrol new students or re-enrol existing students. De-registration requires that all activities involving overseas students should cease. The decisions leading to these actions are to be subject to scrutiny and review by the Administrative Appeals Tribunal.

BACKGROUND

The export of education services by Australian institutions, particularly for full fee paying formal and non-formal courses, has expanded considerably in the past three years. This has resulted in a large number of new organisations becoming involved in the provision of courses. Formal regulation is needed to protect the interests of both students and providers.

FINANCIAL IMPACT

This Bill does not allocate funds, but it will provide protection of students' advance payments to institutions and save any potential administrative and legal costs that might be involved if a continuing unregulated situation required further Government action similar to that covered by the recently introduced *Overseas Students (Refunds) Bill 1990*.

NOTES ON CLAUSES OF THE BILL

- Clause 1 : Short title
- Clause 2 : Commencement: The Act commences on the day on which it receives Royal Assent.
- Clause 3 : Interpretation: This clause defines the words and terms used in the Bill.
- Clause 4 : Only registered providers may provide courses to overseas students : This clause makes it an offence for an institution, other body or person to market, offer or provide courses to overseas students unless the providers or potential providers are registered under this Act.
- Clause 5 : Registration of providers: This clause requires the maintenance of a register, to be known as the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS), which is to contain information on institutions and courses as laid down in the Act, and as specified in Regulations made under the Act.
- Clause 6 : Financial arrangements: This clause requires providers to open and maintain trust accounts into which all funds advanced by overseas students should be deposited initially, and for which conditions of access and availability are laid down. It also provides penalties for any breach of the conditions.
- Clause 7 : Insurance: This clause will ensure protection of the trust funds through insurance or other agreed arrangements. Non-compliance can invoke a penalty.
- Clause 8 : Returns and other information: This clause provides for the lodgement of returns on the disposition and operation of the trust funds on a quarterly basis, although this may be varied. It also enables the Minister to obtain information from providers about recruitment, enrolment and provision of courses. A penalty provision applies to non-compliance.

Clause 9 : Suspension of registration: Failure to comply with the requirements of clauses 6, 7 & 8 can result in the Minister giving notice to a registered provider that consideration is being given to suspending the provider's registration. After examining any written submission from the provider the Minister may decide that registration will be suspended in which case details are to be entered in the Register.

Any suspension under this clause may also be removed by the Minister.

Clause 10 : Automatic suspension of registration: Suspension by a designated authority in a State results in automatic suspension from the Commonwealth Register.

Clause 11 : Cancellation by Minister of registration: After giving written notice to a registered provider and considering any written submission, the Minister may cancel a provider's registration if the Minister is satisfied that the provider's marketing and recruitment conduct warrants it or if a suspended provider is not providing courses for overseas students.

Clause 12 : Automatic cancellation of registration: If a registered provider ceases to be approved by the relevant State authority as a provider of courses for overseas students, becomes bankrupt, is wound up or if a body corporate, ceases to exist, registration as a provider is automatically cancelled.

Clause 13 : Review of suspension or cancellation: This clause provides for suspension or cancellation under the previous two clauses to be subject to the review provisions of the *Administrative Appeals Tribunal Act 1975*.

- Clause 14 : Effect of suspension: While suspended, a provider is not to market, recruit, enrol or re-enrol any overseas students or intending overseas students, whether off-shore or on-shore. Courses with students already enrolled and attending may continue.
- Clause 15 : Effect of cancellation: A provider's name and particulars are removed from the register on cancellation with the effect that they are no longer able to market, recruit or provide courses in Australia for overseas students.
- Clause 16 : Delegation: This clause enables the Minister to delegate powers under the legislation to senior officers of the Department of Employment, Education and Training where the Minister considers this appropriate.
- Clause 17 : Offences by unincorporated bodies: This clause specifies where responsibility is to be attributed for contraventions of this Act where the provider is an unincorporated body of persons.
- Clause 18 : Regulations: This clause provides that Regulations may be made as provided in this Act, and matters necessary or convenient for its operation may be prescribed, subject to being not inconsistent with the Act.

