



Amendments to the Education Services for Overseas Students Regulations 2001

Why have the *Education Services for Overseas Students Regulations 2001* been amended?

The *Education Services for Overseas Students Regulations 2001* (ESOS Regulations) have been amended to ensure that the definition of 'student visa' is appropriate for the purposes of ESOS and that it reflects the definition of 'student visa' under the *Migration Regulations 1994* (Migration Regulations). In addition, redundant penalty provisions for breaches of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (National Code) have been removed.

What has been amended?

Regulation 1.03 of the ESOS Regulations provides a definition of 'student visa' for the purposes of ESOS. This regulation has been amended to:

- update the definition of 'student visa' to state that it means any type of student visa as described in the *Migration Regulations 1994*, except visa subclass 576
- remove all other references to visa subclasses so as to clearly articulate who is, and who is not, covered under ESOS
- remove the reference to 'AusAID student' as the 'Australian Agency for International Development' (AusAID) has been abolished and its functions have been assumed by the Department of Foreign Affairs and Trade (DFAT)
- insert the word 'secondary' to make it clear that the regulation is referring to a 'secondary exchange student' as defined in the Migration Regulations
- remove references to overseas students approved by the Minister for Defence as these students fall under visa subclass 576.

Part 4 of the ESOS Regulations, which relates to penalties for the National Code, has also been removed as there are sufficient powers elsewhere in the *Education Services for Overseas Students Act 2000* (ESOS Act) for action to be taken against providers who breach the National Code.

The *Education Services for Overseas Students Amendment (Student Visas and Other Measures) Regulation 2014* can be found at <http://www.comlaw.gov.au/Details/F2014L00837>

Will this change affect students and education providers?

The amendments to the ESOS Regulations will not affect students or providers because the definition of student visa remains essentially unchanged. The amendment, which aligns the provisions of the ESOS Regulations with those in the Migration Regulations, clarifies the definition to more clearly state who is, and who is not, covered under the ESOS legislative framework. The removal of Part 4 of the ESOS Regulations will not affect students or education providers given that the provisions were not being used and were partly repealed in 2012.

When will the amended regulation take effect?

The amendments to the ESOS Regulations will come into effect on **1 July 2014**.