The Parliament of the
Commonwealth of Australia

THE SENATE

Education Services for Overseas Students
Amendment (Re-registration of Providers and Other Measures) Bill 2009

(Amendments to be moved by Senator Hanson-Young on behalf of the Australian Greens in committee of the whole)

(1) Schedule 1, item 5, page 3 (after line 30), at the end of paragraph 9(2)(c), add:
   (iv) states that the provider has the clearly demonstrated capacity to provide student support of a satisfactory standard; and
   [capacity to provide student support]

(2) Schedule 1, item 7, page 4 (after line 11), at the end of paragraph 9(2)(d), add:
   (iv) does not have the clearly demonstrated capacity to provide student support of a satisfactory standard; and
   [capacity to provide student support]

(3) Schedule 1, page 4 (after line 14), after item 7, insert:

7A After subsection 9(3)

Insert:

(3A) For the purposes of paragraph (2)(c), the regulations may prescribe the criteria to be applied by the designated authority in determining if the provider has:
   (a) the principal purpose of providing education; and
   (b) the clearly demonstrated capacity to provide education of a satisfactory standard; and
   (c) the clearly demonstrated capacity to provide student support of a satisfactory standard.
   [criteria to be applied by designated authority]

(4) Schedule 1, item 11, page 6 (after line 3), at the end of paragraph 9A(2)(d), add:
   (iv) states that the provider has the clearly demonstrated capacity to provide student support of a satisfactory standard; and
   [capacity to provide student support]
(5) Schedule 1, item 11, page 6 (after line 15), at the end of paragraph 9A(2)(f), add:

(iv) does not have the clearly demonstrated capacity to provide student support of a satisfactory standard; and

[capacity to provide student support]

(6) Schedule 1, item 11, page 6 (after line 23), after subsection 9A(3), insert:

(3A) For the purposes of paragraph (2)(d), the regulations may prescribe the criteria to be applied by the designated authority in determining if the provider has:

(a) the principal purpose of providing education; and
(b) the clearly demonstrated capacity to provide education of a satisfactory standard; and
(c) the clearly demonstrated capacity to provide student support of a satisfactory standard.

[criteria to be applied by designated authority]

(7) Schedule 1, item 14, page 8 (after line 21), at the end of paragraph 14(1)(a), add:

(iv) does not have the clearly demonstrated capacity to provide student support of a satisfactory standard; and

[capacity to provide student support]

(8) Schedule 2, page 15 (after line 19), after item 3, insert:

3A After Part 2

Insert:

Part 2A—Registration of agents

14A Registration of agents

(1) The regulations may prescribe a registration scheme for persons who act as agents of providers (whether within or outside Australia).

(2) The Secretary is the registering authority under the scheme.

(3) The scheme may provide for the following matters:

(a) the manner in which a person may apply for registration, including the fees for applications;
(b) a process for the consideration and approval by the Secretary of applications for registration;
(c) factors to be taken into account by the Secretary in deciding whether to approve an application for registration.

(4) The program may contain ancillary or incidental provisions.

(5) The Minister must take all reasonable steps to ensure that regulations are made for the purposes of subsection (1) before 1 July 2010.

14B Offence: failure to register as an agent

A person is guilty of an offence if, after 30 September 2010, the person acts or purports to act as an agent of a provider and the person is not a registered agent under a registration scheme prescribed in accordance with section 14A.
Maximum penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### 14C Registered provider must not employ unregistered agent

A registered provider must not employ a person as an agent in connection with:
- the recruitment of overseas students or intending overseas students; or
- the provision of courses to overseas students;

unless the person is a registered agent under a registration scheme prescribed in accordance with section 14A.

Note: The Minister may take action under Division 1 of Part 6 against a registered provider that has breached this section.

### 14D Registered agents must not engage in misleading or deceptive conduct

1. A registered agent must not engage in misleading or deceptive conduct in connection with:
   - the recruitment of overseas students or intending overseas students; or
   - the provision of courses to overseas students.

   Note: The Minister may take action under Division 1 of Part 6 against a registered provider that has breached this section.

2. The regulations may provide for monitoring the activities of agents after registration.

### 3B At the end of section 15

Add:

(2) The regulations may provide for monitoring the activities of providers.

[registration of agents and monitoring activities of agents and providers]

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[registration of agents and monitoring activities of agents and providers]

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(2) If in a paragraph 27(1)(b) or (c) case alternative arrangements under section 31 have been made, the provider must provide a certified copy of the academic transcript to the student and to the new registered provider (if applicable) within 2 weeks of the day on which the course ceased to be provided.

32C Assessment of prior learning

If alternative arrangements under section 31 have been made in respect of a student and accepted by the student, the registered provider or the new registered provider:

(a) may recognise the prior learning recorded in the certified academic transcript of the student; or

(b) must assess the prior learning of the student and recognise it to the extent appropriate after that assessment.

[academic transcripts and prior learning]