2010-2011-2012

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT (TUITION PROTECTION AND OTHER MEASURES) BILL 2011

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

(Circulated by authority of the Minister for Tertiary Education, Skills, Science and Research)
EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT (TUITION PROTECTION AND OTHER MEASURES) BILL 2011

OUTLINE

The Senate Education Employment and Workplace Relations Legislation Committee inquiry into this Bill reported on Monday 27 February 2012 and recommended that the current proposed 24 hour timeframe for notifications on student and provider defaults be increased to three business days.

These Government amendments seek to further address issues that have arisen during parliamentary inquiries into this Bill. They will:

- modify the proposed subsection 46B(2) to require providers to notify the Secretary and Tuition Protection Service (TPS) Director of provider defaults within three business days rather than 24 hours;
- modify the proposed subsection 47C(2) to require providers to notify the Secretary and TPS Director of student defaults within five business days rather than 24 hours; and
- clarify limits on prepaid fees in Schedule 3 of the Bill such that a provider may take up to 50 per cent of total course costs (or 100 per cent for a course falling within one study period of 24 weeks or less) at any time before the course commences but may not require students to pay any remaining fees earlier than two weeks prior to the student’s second study period.

FINANCIAL IMPACT STATEMENT

These amendments have no financial impact.
Amendments 1 to 4

These amendments will change the time period within which the provider must notify the Secretary and the Tuition Protection Service (TPS) Director after a default occurs.

Currently, the Bill provides that where a provider defaults in relation to an overseas student the provider must notify the Secretary and the TPS Director within 24 hours of the default. Amendment 1 will change the required timeframe from 24 hours to three business days.

This is in response to a recommendation in the Senate Education Employment and Workplace Relations Committee inquiry report tabled on 27 February 2012. Similarly, where an overseas student or intending overseas student defaults, the Bill requires a provider to notify the Secretary and the TPS Director of the default within 24 hours of the default. Amendment 3 will change the timeframe within which a provider must notify the Secretary and the TPS Director to five business days.

This is in recognition of the time it takes for a provider to investigate a student’s non-commencement to confirm a default.

Amendments 2 and 4 will add notes to the Bill to clarify that the definition of business day is contained in section 2B of the Acts Interpretation Act 1901.

Amendment 5

This amendment will clarify the operation of the pre-paid fees provisions.

The Bill currently limits the amount of initial pre-paid tuition fees that may be collected by a registered provider in two ways.

First, it limits the amount of tuition fees that a provider may receive before a student begins a course to no more than 50 per cent of total course tuition fees except where the course has only one study period (note a study period is not more than 24 weeks long).

Second, once a student has begun a course a provider cannot receive any tuition fees for the second and subsequent study periods more than two weeks before the start of the relevant study period.

This amendment amends the second limitation referred to above to provide that once a student has begun a course a provider must not require a student to pay any further tuition fees for the course more than two weeks before the beginning of the student’s second study period for the course.
Beyond this, there will not be any further limitation on the requirement of pre-paid tuition fees.

This amendment will also prevent a provider from being in breach of the pre-paid tuition fee requirements where a student who has started a course voluntarily pays a provider any of the balance of the tuition fees for the course more than 2 weeks before the start of the student’s second study period for the course.