



Student Fees, Charges and Refund Policy & Procedure

Purpose

The *Education Services for Overseas Students (ESOS) Act 2000* and the National Code 2018 are part of the ESOS framework governing the responsibilities of education providers towards overseas students. This policy satisfies the requirements of the *National Code of Practice for Providers of Education and Training to Overseas Students 2018, Standard 3, Standard 9 and Standard 10*.

This policy also complies with *Standard 5.3 of Standards of Registered Training Organisations (RTOs) 2015*.

The purpose of this policy is to ensure that Institute of Intellect Blending (IIB) will ensure that fees, charges and refunds are collected and administered in accordance with the provisions of applicable legislative and contractual requirements and the policy is made available to all current and prospective students on the IIB website. IIB will also adopt a refund policy that is fair to students who have valid reasons for requesting refunds and who give IIB sufficient notice, while at the same time protecting IIB from suffering economic loss that may be caused by refund requests that are not submitted within the required timeframe.

The policy applies to administration fees, charges and refunds applicable to overseas students attending CRICOS registered VET and ELICOS courses.

Scope

This policy and procedure apply to all the prospective and enrolled international students at IIB who pay part or full advance fees when applying for a place at IIB.

References

ESOS Act (2000) / National Code of Practice for Providers of Education and Training to Overseas Students 2018

SRTO Ref: Standard 5.3

Definitions

Course: A program of study leading to a qualification or an award.

Fee: means fees IIB receives, directly or indirectly, from:

- i. an overseas student or intending overseas student; or
 - ii. another person who pays the fees on behalf of an overseas student or intending overseas student;
- that are directly related to the provision of a course that the IIB is providing, or offering to provide, to the student; and



'Fees' only means tuition fees not third party or ancillary fees such as admission fee, OSHC fee, resources, student kit or material fee.

Resources: Cost of learning materials and resources indicated in the Student Agreement which each student is required to purchase at the time of joining the course

Application/Enrolment Fee: Covers the administrative costs of enrolment

Fee Due Date: As per the dates on the student agreement

Pre-paid Fee: Fees paid in advance prior to course commencement

Agreed Start Date: for a course means the day on which the course was scheduled to start, or a later day agreed between the IIB for the course and the student.

Policy & Procedure

Notification of Fees and Charges

Fees and charges are advised to all IIB students and prospective students prior to, or at the time of enrolment through the appropriate documentation. Payment arrangements are aligned to courses and may vary depending upon factors such as length of course, qualifications etc.

IIB advises its fees and charges in course promotional materials, on the IIB website, in the offer letter, enrolment form, in pre-course invoices applicable at the time, and in the student Course Acceptance Agreement where applicable.

Tuition and enrolment fees are non-transferable to other students or other institutions.

A tuition fee payment plan may be offered or granted to students.

According to ESOS Act,

- (1) A registered provider must not receive, in respect of an overseas student or intending overseas student, more than 50% of the student's total tuition fees for a course before the student has begun the course.
- (2) Subsection (1) does not apply if:
 - (a) either of the following choose to pay more than 50% of the overseas student's, or intending overseas student's, total tuition fees for a course before the student has begun the course:
 - (i) the student;
 - (ii) a person who is responsible for paying those fees; or
 - (b) the course has a duration of 25 weeks or less.



Administration and materials charges

Fees and charges may include an administration fee, enrolment fee, booking fee, Overseas Student Health Cover (OSHC) insurance, accommodation, airport pickup, material fees for learning resources essential for the course, items which are consumable or transformed by students during the course, text books, photocopying, re-issuing of receipts, copies of academic reports, change of enrolment, additional copies or re-issue of qualifications and academic transcripts, etc.

Additional charges may also apply including follow up charges associated with late or non-payment, overdue fees and dishonour cheque fees.

International students are to be made aware of all material costs and administration charges in their Offer Letter and Course Acceptance Agreement prior to enrolment.

| Additional non-tuition fees* | | |
|---|--|----------------|
| Enrolment Fee | \$250 | Non-refundable |
| Materials fee | \$50 per term | Non-refundable |
| Textbook fee | As per RRP | Non-refundable |
| RPL fee | \$300 per unit | Non-refundable |
| Credit transfer fee | No Fee | Non-refundable |
| Assessment late submission fee | \$100 per unit | Non-refundable |
| Re-assessment fee | \$100 per unit | Non-refundable |
| Accommodation services | \$200 | Non-refundable |
| Airport pick-up (One-way) | \$200 | Non-refundable |
| Late payment fee | \$100 overdue within 7 days \$200 overdue over 7 days | Non-refundable |
| CoE variation fee | \$50 per CoE | Non-refundable |
| Certificate/Statement of Attainment Reissue Fee | \$50 | Non-refundable |
| Student ID card reissue fee | \$25 | Non-refundable |
| Printing Fee | \$0.20 per page (BW) / \$1.00 per page (Colour) | Non-refundable |

*These fees are applicable in certain circumstances and might change during enrolment.

Payment arrangements

It is a requirement of IIB that where tuition fees, administrative charges or other charges are applicable, these must be paid by the specified due dates on the Course Acceptance Agreement and Letter of Offer and paid in Australian dollars.

Course commencement will not occur until the first scheduled fee payment is made.

For courses with duration less than 12 weeks, the full upfront tuition fee must be pre-paid before enrolment. Partial payments and delayed payment schedule are not available for courses with duration less than 12 weeks.

Payment from students can be made by direct bank deposit, credit card and bank cheque (funds must be cleared before the date the student commences the course).



Payment Plan Arrangements

If a student communicates difficulty in their ability to make payment of the full instalment due, a payment plan may be offered as a supportive measure. Payment plans are agreed upon based on a three (3) or four (4) part instalment payment.

Late payment fee will be applied unless the exemption of late payment fee is approved. Approval will be granted on a case-by-case appraisal of compassionate or compelling circumstances, evidence of which is to be provided by student.

Student will be issued with a revised Payment Schedule for the current due payment.

Late Fees and Non-payment of Fees

To ensure IIB's financial viability and ensure that CRICOS and other Fee Paying Student are given a proper mechanism to enter into a payment arrangement schedule, this section provides guidelines in relation to managing students who are behind in schedule in the payment of their fees, reporting students for non-payment, and refusal of request to issue any certificates if tuition fee payments are in arrears.

Procedures

1. All IIB Fees must be paid by the due date as indicated on the Agreement and/or on the invoice. If a student fails to pay all fees and charges by the due date, the student is deemed to be an IIB debtor.
2. If the student made the payment after the due date, there will be a Late Payment Fee of \$100 for late payment under 7 days, \$200 fee for late payments over 7 days.
3. Student Services and/or Administration department will not issue any request for relevant documentation if the student has not paid their tuition fee. Continuous Non-Payment of Fees will result in the following actions by IIB:
 - Remove access to IIB's resources, computer systems or online course;
 - Withhold academic transcripts and/or qualifications;
 - Immediate lock out of MOODLE;
4. Students who have not paid the total amount of tuition fee by the invoiced due date will be sent up to 4 weekly reminder emails.
5. The first reminder email will be sent the same week as the invoiced due date. The emails will include the invoice for the tuition showing any outstanding amount, the due date and how many reminders have been sent.
6. IIB will issue a *Written Notice of Intent to Report (WNOITR)* if overdue fees are not paid within seven (7) days, after the 4th payment reminder email has been sent and the student has not paid the outstanding amount and/or made an attempt to communicate with the college regarding the payment.
7. International Students must immediately make arrangement with the IIB accounts team to avoid being cancelled for non-payment of fees. Failure to pay the debt may result in any or all the following, until the full amount is paid:
 - suspension of the student from attending or participating in the course;
 - loss of access to the Institute's resources, computer systems or online course;
 - loss of access to enrolment record information and academic transcripts;

- inability to graduate;
 - withhold certificates of completion and participation;
 - termination of the enrolment;
8. If the student didn't respond within twenty (20) working days from the date of the *Written Notice of Intent to Report* (WNOITR), their enrolment with IIB will be cancelled, and if the student is an international student, the CoE will be cancelled and student will be reported for Non-Payment of fees on PRISMS to inform the Department of Education and the Department of Home Affairs for the breach of student visa conditions (International Students only).
 9. Generally, a registered provider may proceed with the deferral, suspension, or cancellation after the internal complaints handling and appeals process has been completed –for example, in cases of misbehaviour and non-payment. The only time a registered provider needs to wait for both the internal and external complaints handling and appeals processes to be completed is for course progress and/or attendance breaches.

Managing Student Appeal for IIB Decision to Report

1. Within twenty (20) working days from the *Written Notice of Intent to Report* (WNOITR) is issued, student can appeal for decision to report and to cancel the student's CoE.
2. Student should meet IIB appointed officer to manage their tuition fee payment, with an option to pay by instalment if the student is unable to pay the tuition fee in full.
3. The tuition fee per term has to be paid during the term, if the student pays the tuition fee by instalment. The total tuition fee per term has to be paid during that term, unless there are compassionate and compelling circumstances.
4. In the event student failed to appeal within 20 working days, the Student Support Officer will notify the Academic Manager and/or Academic Coordinator that student's enrolment will be cancelled. If the student is an International Student, the CoE will also be cancelled for non-payment of tuition fee.
5. IIB will not report student who had lodge an appeal until a decision has been made to either:
 - a. continue to cancel the student enrolment and report the student to the immigration via PRISM or;
 - b. not report the student due to compelling, compassionate reason or as a directive by the regulatory body.
6. If the decision is not to cancel the student enrolment and (for international student) not to report the student to the immigration due to compassionate and compelling circumstances, student still have to make the payment in full with one-time payment or by instalment with the approval by IIB.

Debt Recovery

Fair and adequate recovery procedures are in place to manage the collection and recovery of monies.



1. Outstanding debts will be referred to a debt collection agency where fees may occur.
2. All direct debit plans (Payment Plan) must commence and end within the term. This means no amounts owing can be carried to the next term of study.
3. Any direct debits dishonoured by the bank will incur an additional \$100 dishonour fee. This fee is applicable to each default. Again, the amount will be added to the current amount owing and needs to be cleared within the term.

Credits

Pre-payments, scholarships, waivers and amounts transferred from one course to another will be credited to the student/client's account.

Refunds

In relation to Refunds, the following information will be provided in the written agreement, which is to be consistent with the requirements of the ESOS Act:

- a. amounts that may or may not be repaid to the student (including any course money collected by education agents on behalf of the registered provider);
- b. processes for claiming a refund;
- c. a plain English explanation of what happens in the event of a course not being delivered, and;
- d. a statement that 'This agreement, and the availability of complaints and appeals processes, does not remove the right of the student to take action under Australia's consumer protection laws'.

IIB, as part of the formalisation process will advise each potential student of the circumstances in which personal information about the student maybe shared with others.

IIB will not accept course money from any student until the student has signed or otherwise accepted the agreement.

IIB may accept course money received at the same time as the verification of acceptance (for example, if a student sends a signed acceptance with an accompanying payment or brings the payment along with the accepted agreement to the provider's office).

If IIB receives course money sent by mail (for example, by cheque or money order) before receiving the accepted written agreement, IIB will not use the money. IIB should immediately contact the student or agent to inform them that the payment cannot be processed (and the enrolment cannot progress) until the provider receives the accepted written agreement from the student.

Refund Conditions and Application Process

Fees paid prior to the course commencement date will only be refunded as detailed below:



1. Refund applications must be made in writing on the Application for Refund Form; and set out the reasons for the application; and be accompanied by supporting documents as may be appropriate; and be forwarded directly to Student Admissions at IIB.
2. If you defer commencement date of a course and then cancel the course, the original start date before your request for deferment(s) will be used as the original course start date to determine whether a refund will be given
3. Refund will be made in Australian Dollars (AUD) for all applicants.
4. Payment of refunds will not be made in cash directly to the student, but transferred to the nominated bank account or through the appointed agent.
5. Course Fees are not transferable to another student or institution.
6. Refunds will be made to the bank details nominated in the Application for Refund form.
7. Bank charges are deducted for refunds made by bank draft or electronic transfer.
8. Refund applications will not be processed where the signature on the Application for Refund Form does not match the student's signature as shown on other documents provided by the student for admission to the College and the Student agreement.
9. All debts to IIB must have been paid before any refund can be calculated with any outstanding amounts to be deducted from the refund.
10. Where a student is dissatisfied with a decision to provide or not to provide a refund, he or she may appeal that decision in accordance with the Complaints and Appeals.

This procedure, and the availability of complaints and appeals processes, does not remove the right of the student to take action under Australia's consumer protection laws.

If required, or when IIB agrees to refund monies paid, it will do so within 4 weeks of receipt of student claim with required documentary. The refund will include all course fees paid (less the registration fee, fees paid to education agents).

The College will provide the student with a written statement detailing how the amount of the refund has been calculated. All refunds will be paid to the person who enters into the contract with the College (the Student) unless they provide written direction to the provider to pay the refund to someone else. Under no circumstance will the refund be paid to an education agent. All refunds will be paid in Australian Dollars (AUD) .

Refund Conditions - Visa Refusal

- If a visa application to study in Australia is refused by the DHA because of reasons considered as unlawful by the DHA, including but not limited to fraudulent, and/or forged documents, and/or incomplete and/or incorrect information, no refund whatsoever of any money paid to the college will be made. The reasons on visa refusal letter are to be taken into consideration to determine whether refusal is because of unlawful reasons.
- If a visa application is refused by the DHA before or after the course commences because of reasons other than the ones stated in clause 1 of this section, IIB will process refund in accordance with the Australian Government Education Services for Overseas Students (Calculation of Refund) Specification 2014.

- The application for a refund must be made in writing to IIB together with a copy of visa rejection notification from the Australian Embassy/ High Commission/ Department of Home Affairs.
- In any case of visa refusal, a **\$500** Administration and Processing Fee for Refunds will be applied by IIB.

Refund Conditions - Student Default

- No refund of tuition fees will be made where a student's enrolment is cancelled for any of the following reasons:
 - Failure to maintain satisfactory course progress
 - Failure to maintain satisfactory attendance
 - Failure to pay course fees
 - Any behaviour identified as resulting in enrolment cancellation as outlined in IIB's Deferral, Suspension or Cancellation of an Overseas Student Enrolment Policy.
- The student will be deemed to have defaulted if he/she cancels their course prior to commencement, does not commence the course on the commencement date, and/or fails to comply with Terms and Conditions of Enrolment and/or conditions of their visa conditions.
- In cases where the student defaults prior to commencement, IIB will refund fees paid by or on behalf of the student in accordance with the Cancellation and Refund Policy within 28 days after receiving written notice.
- Administration and Processing Fee for Refunds of **\$500** will be applied in any case of student default.
- The amounts of refund depend on the date when the written notification for cancellation is received by the College and are given below:

| Written notice is received, | Amount to be refunded |
|---|---|
| • more than 28 days prior to the commencement of the first course | • 75% of the fees paid in advance minus administration and processing charges |
| • more than 14 days and less than 28 days prior to the commencement of the first course | • 50% of the fees paid in advance minus administration and processing charges |
| • less than 14 days prior to the commencement of the course | • 25% of the fees paid in advance minus administration and processing charges |
| • after the course commencement date | • No refund |

- If a student defaults after the course commencement, breaches his/her visa conditions, does not pay fees on time, or has their enrolment suspended or cancelled, no fees will be refunded to the student.
- Where 2 or more courses are packaged, the conditions apply to all elements. The course start date for packaged courses is taken to be the start date of the first course in the package.

- The aforementioned course commencement date refers to the first day of the course enrolled, not the commencement of the term. No refunds will be issued after the course starts irrespective of instalment plan and term start dates.

Refund Conditions - Provider Default

- IIB reserves its right to cancel a course and/or enrolment prior to commencement date. If IIB cancels a course prior to commencement date, cannot commence a course on agreed date and/or cannot deliver a course in full, these cases will be classified as Provider Default.
- In the unlikely event that IIB is unable to deliver a course in full, the student will be offered a refund in accordance with the Education Services for Overseas Students (Calculation of Refund) Specification 2014 which outlines minimum payment requirements in these circumstances. Refunds will be paid to students within 28 days of the default day.
- Situations where a provider default may occur include:
 - The course does not start of the agreed starting date which is notified in the Offer Letter.
 - The course stops being provided after it starts and before it is completed.
 - The course is not provided fully to the student because the college has a sanction imposed by a government regulator.
- Alternatively, the student may be offered enrolment in an alternative course by IIB at no extra cost to him/her. The student has the right to choose between a refund as outlined above, or to accept a place in another course. If the student agrees to accept an alternative (replacement) course or part of a course, to be provided to the student at IIB's expense, then IIB is relieved of its liability to provide a refund.
- The student must advise IIB in writing whether or not they agree to the alternative arrangement.
- All refunds will include a statement explaining how the refund amount was calculated.
- If IIB is unable to provide a refund or place the student in an alternative course, the Tuition Protection Scheme (TPS) will place the student in a suitable alternative course at no extra cost to the student.
- If the TPS cannot place the student in a suitable alternative course, the ESOS Assurance Fund Manager will attempt to place the student in a suitable alternative course or, if this is not possible, the student will be eligible for a refund as calculated by the Fund Manager.

Go to <https://tps.gov.au/StaticContent/Get/StudentInformation> for more information.



A refund of tuition fees will only be granted in accordance with the refund policy set out below:

| Fee Refund Conditions | Refund Applicable |
|--|---|
| <p><i>For these refund conditions the terms</i></p> <ul style="list-style-type: none"> • ‘Package of courses’ means a sequence of one or more courses specified in the letter of offer for which CoE(s) have been issued. To avoid doubt where there is only one CoE, package of courses means that CoE • ‘Fees’ only means tuition fees not third party or ancillary fees such as admission fee, OSHC fee or resources fee. | <p><i>For these refund conditions the terms</i></p> <ul style="list-style-type: none"> • ‘Package of courses’ means a sequence of one or more courses specified in the letter of offer for which CoE(s) have been issued. To avoid doubt where there is only one CoE, package of courses means that CoE • ‘Fees’ only means tuition fees not third party or ancillary fees. |
| <p>1. If a visa application to study in Australia is refused by the DHA because of reasons considered as unlawful by the DHA, including but not limited to fraudulent, and/or forged documents, and/or incomplete and/or incorrect information,</p> | <p>1. No refund whatsoever of any money paid to the college will be made. The reasons on visa refusal letter are to be taken into consideration to determine whether refusal is because of unlawful reasons.</p> |
| <p>2. If a visa application is refused by the DHA before or after the course commences because of reasons other than the ones stated in clause 1 of this section</p> | <p>2. IIB will process refund in accordance with the Australian Government Education Services for Overseas Students (Calculation of Refund) Specification 2014. The application for a refund must be made in writing to IIB together with a copy of visa rejection notification from the Australian Embassy/ High Commission/ Department of Home Affairs.</p> <p>In any case of visa refusal, Administration and Processing Fee for Refunds of \$500 will be applied by IIB.</p> |



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| 3. If IIB receives a written notice of withdrawal more than 28 days before the agreed start date of the first course in the 'package of courses' | 3. The refund will be 75% of the fees paid in advance by the student for each and every course in the 'package of courses' minus an administration and processing charge of AUD\$500.00. |
| 4. If IIB receives a written notice of withdrawal more than 14 days but less than 28 days before the agreed start date of the first course in the 'package of courses' | 4. The refund will be 50% of the fees paid in advance by the student for each course in the "package of courses" minus an administration and processing charge of AUD\$500.00. |
| 5. If written notice is received 14 days or less before the commencement date of the first course of the 'package of courses' | 5. The refund will be 25% of the fees paid in advance by the student for each course in the "package of courses" minus an administration and processing charge of AUD\$500.00 |
| 6. If the student withdraws after the agreed start date of the first course in the 'package of courses' | 6. There will be no refund of any fees paid in advance for each and every course in the 'package of courses'. Students will also have to pay the balance of any fees due for remainder of their current course of study. |
| 7. If a student's visa is cancelled due to their breach of international student visa conditions or IIB Policies and Procedures or Student Misbehaviour after the commencement of the first course in the 'package of courses' | 7. Maintaining the conditions of the visa grant and following IIB's policies and procedures as agreed is the student's responsibility. There will be no refund of any fees paid in advance for each and every course in the 'package of courses'. Students will also have to pay the balance of any fees due for remainder of the current course of study. |



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| 8. At the time of enrolment any Credit Transfer (CT)/ Recognition of Prior Learning (RPL) will be discussed & granted after the student provides enough evidence, | 8. If the Credit Transfer allows shortening of the duration of a specific course in the 'package of courses' a pro-rata fee will be worked out for the specific course and offered to the student. Once the student accepts the offer, there will be no further reduction of the fee and all refund conditions apply to each course in the 'package of courses' |
| 9. If a student's visa expires whilst studying a 'package of courses' and they are not able to complete their 'package of courses' because their application for an extension of visa is not granted by DHA | 9. All unused fees paid in advance for each and every course in the "package of courses" minus administration and processing charges of AU\$500.00 will be refunded. Calculation of 'unused fees' is in accordance with applicable ESOS regulations. |
| 10. If a student is granted a deferment or temporary suspension of studies after the commencement of a 'package of courses' | 10. IIB will hold all fees paid in advance for the period of the suspension/deferment. If the student does not return or commence on the agreed date without the approval of IIB the student is deemed to have inactively withdrawn, and their enrolment will be cancelled. There will be no refund of any fees paid in advance for each and every course in the 'package of courses'. |
| 11. In cases of Provider default. IIB <i>defaults</i> , in relation to an overseas student or intending overseas student and a course, if: either of the following occurs: <ul style="list-style-type: none">◦ IIB fails to start to provide the course to the student on the agreed starting day; | 11. Refund of unexpected tuition fees (i.e. tuition the student has paid for but has not been delivered by the provider) in accordance with applicable ESOS regulations. IIB will give the student a statement that explains how the refund amount has been worked out. The refund |



| | |
|---|--|
| <ul style="list-style-type: none">◦ the course ceases to be provided to the student at any time after it starts but before it is completed; and◦ the student has not withdrawn before the default day. | policy is subject to review from time to time. |
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(Note: The date for calculation of the refund will be the date formally received and acknowledged by IIB and in accordance with ESOS regulations)

Appeals

Once a decision is made on a student's application for fee refund, the student will be notified in writing of the outcome, including reasons for the decision.

Student should also refer to IIB's **Complaints and Appeals Policy**, available from the college or from the IIB website for information on lodging an appeal against a decision. Student can submit an internal complaint or appeal using Complaint form/Appeal Form. The College will start the assessment of complaint/appeal within 10 working days after the date of submission of the complaint/appeal, and will finalise the outcome as soon as practicable.

If the student is not satisfied with the outcome of the internal appeal process, he/she can lodge an external appeal to NSW Ombudsman through <https://www.ombo.nsw.gov.au/complaints>.

This policy, and the availability of complaints and appeals processes, does not remove the right of the student to act under Australia's consumer protection law. The ESOS legislation provides consumer protection if a student or college defaults on the course the student is enrolled in. It is amply covered under IIB's refund policy.

Student Fee Assurance

IIB protects overseas/international students' fees by holding membership in the Australian Government Tuition Protection Service (TPS) established as a single layer mechanism to place students when a provider cannot meet its obligations, or as a last resort, to provide refunds of unexpended prepaid tuition fees. For more information, please visit www.tps.gov.au.

The Department of Home Affairs (DHA) is responsible for making decisions on student visa applications and administering the Student Visa Program and other immigration-related legislation.



The provision of education to international students is regulated by the Department of Education through the Education Services for Overseas Students (ESOS) legislative framework. The department has made available a brief overview of the ESOS Framework, including the rights and responsibilities of international students.

A summary of the ESOS Framework is available for download on the internet.

All students and clients have the right to act under Australia's consumer protection laws.

Related policies and procedures

- Deferral, Suspension and Cancellation Policy and Procedure
- Admissions Policy and Procedure
- Complaints and Appeals Policy and Procedure
- Admissions Manual
- Application for Refund Form
- Enrolment Form
- Letter of Offer & Course Acceptance Agreement
- Complaint form/Appeal Form

Appendix:

Explanatory Guidance on the Education Services for Overseas Students

(Calculation of Refund) Specification 2014

The information contained in this document is designed to assist education providers and their peak body representatives to understand the changes to the refund calculations specified in the instruments under sections 46D(7) and 47E(4) *Education Services for Overseas Students Act 2000* ('ESOS Act') as a result of the *Education Services for Overseas Students Amendment Act 2014* ('Amendment Act').

The methods for calculating refunds of fees for these provisions of the Act are set out in the *Education Services for Overseas Students (Calculation of Refund) Specification 2014* (refund specification).

Previously there were two legislative instruments that applied for these provisions of the ESOS Act. The refund specification replaces the two previous instruments to give providers a clearer, single resource to enable them fulfil their obligations in relation to these refunds.

When does the Specification apply from?

The refund specification will commence on 1 July 2014 - that is, it will apply to calculating refunds of fees where the default day (as defined in section 5 of the ESOS Act) occurs on or after 1 July 2014.

Providers will be expected therefore to update their documentation and refund students in accordance with the Specification from 1 July 2014.

The previous Determinations continue to apply to calculating refunds of fees where the default day occurred prior to 1 July 2014.

In what circumstances do I need to calculate refunds in accordance with the refund specification?

The refund specification sets out the methods for calculating refunds of fees by a registered provider in the following circumstances:

- Provider default (refer sections 46A and 46D of the Act)
- Student default where the provider has not entered into a written agreement with the student that meets the requirements of section 47B of the Act (refer 47E(1)(b)(i) of the Act)—that is, a compliant agreement
- Student default owing to visa refusal (refer sections 47A, 47D(5) and 47E(1)(b)(ii) of the Act).

Do I have to calculate refunds in accordance with the refund specification?

If the circumstances outlined above apply, yes, because the refund calculations outlined above cannot be covered by a written agreement. Providers are not able to use their own calculations in these circumstances and must use the calculations in the refund specification.

However, the amounts of refunds calculated in accordance with the refund specification are minimum amounts, and providers are able to refund higher amounts if they wish.

Key concepts in the refund specification

Types of fees

Calculation of refunds under the refund specification is undertaken by reference to tuition fees for a course received by a provider in respect of a student. In circumstances where a refund is being calculated because a student has failed to commence a course, the refund is also calculated by reference to the non-tuition fees received by a provider.

Tuition fees

Tuition fees are defined in section 7 of the ESOS Act. They are fees received by a provider (from or on behalf of an overseas student or intending overseas student) that are “directly related to the provision of a course that the provider is providing, or offering to provide, to the student”.

Tuition fees are typically compulsory fees for the delivery of the enrolled course and include items such as:

- tutorials and tutoring sessions
- lectures
- additional requisite training including practicums and practice hours
- ancillary costs for fieldwork, excursions or laboratories
- specialist materials that are mandatory and relate to the provision of the course.

Non-tuition fees

Non-tuition fees cover other items not directly related to tuition, and may be compulsory or discretionary.

The calculations under sections 7, 8 and 10 relate to tuition fees only.

Overview of the refund specification, with examples

Sections 5, 6 and 7 of the refund specification—Provider default

Sections 5, 6 and 7 of the refund specification endeavour to simplify the refund calculation in relation to provider default where a provider has defaulted and no alternative course has been offered by the provider and accepted by the student. The calculation under section 7 remains essentially unchanged but is simplified as a calculation in the form of an equation. It is intended that this methodology will clarify the somewhat complex wording of the previous instrument.

Section 8 of the refund specification—Provider does not enter into a compliant written agreement

Section 8 of the specification seeks to clarify the refund calculation that applies where a provider fails to enter into a written agreement with a student or where the agreement is not compliant with the requirements of the ESOS Act and the ESOS National Code. In these circumstances the refund specification requires the refund to be calculated in the same way it is calculated for provider default. The rationale for this is that the provider has breached its responsibilities and the student should be protected in the same manner as if the provider had defaulted.

The example below illustrates the refund calculation that would have previously applied and the refund calculation that will now apply to sections 5, 6, 7 and 8 of the refund specification.

EXAMPLE 1: In the case where a provider defaults

Previous calculation method under the Education Services for Overseas Students (Calculation of unspent pre-paid fees – provider default) Determination 2012 (No. 1):

- a) Pre-paid amount for a particular period / Number of weeks¹ to which the payment relates
= Tuition fee per week
- b) Tuition fee per week × number of weeks² between the date of default and the end of the period to which the payment relates
= unspent pre-paid tuition (the refund amount)

¹ The number of weeks to which the pre-paid amount relates is to be calculated by rounding up the number obtained by dividing the number of days between the start and end dates of the period to which the payment relates (inclusive) by 7.

² The number of weeks between the date of default and the end of the period to which the payment relates is to be calculated by rounding up the number obtained by dividing the number of days between the date of default and the end date of the period to which the payment relates (inclusive) by 7.

William enrolls in a 10-week (70 calendar day) course that costs \$1,000. He pays the provider \$500 tuition fees in advance, for the first 5 weeks (35 calendar days) of the course.

During the course, the provider defaults and William does not agree to undertake the alternative course offered by the provider. The default day is day 25 of the course.

- a) $\$500 / (35 \text{ calendar days divided by } 7 = 5)$
 $\$500 / 5 = \100 (tuition fee per week)
- b) $\$100 \times ((35 \text{ calendar days to which payment relates} - 25 \text{ calendar days from start of course until default day}) / 7)$ and rounded up
= $\$100 \times (10 / 7, \text{ rounded up})$
= $\$100 \times 1.428571$ (rounded up to 2 to represent the nearest whole week)
= $\$100 \times 2$ (weeks) = \$200

William's unspent tuition (refund amount) under the previous calculations would have been \$200.

New calculation under section 7 of the Education Services for Overseas Students (Calculation of Refund) Specification 2014:

- a) Weekly tuition fee = (total tuition fee for the course / number of calendar days in the course) × 7, rounded up to the nearest whole dollar.

$$\text{b) Weeks in default period} = \frac{\begin{array}{l} \text{number of calendar days from the} \\ \text{default day to the end of the period} \\ \text{to which the payment relates} \end{array}}{7}$$

- c) Refund amount = weekly tuition fee × weeks in default period

Sabrina is enrolled in a course in a 42-week (294 calendar days) course that costs \$8,000. She pays the provider \$4,000 in tuition fees before commencing the course. This payment relates to the first 12 weeks (84 calendar days) of the course. The provider defaults on day 20 of the course.

- a) Weekly tuition fee = (\$8,000 / 294 calendar days) × 7
= (\$27.210884) × 7, rounded up to the nearest whole dollar
= \$191
- b) Weeks in default period = (84 calendar days to which payment relates – 20 calendar days from start of course to default day) / 7
= 64 / 7
= 9.1428571, rounded up to the nearest whole week = 10 weeks
- c) Refund amount:
Weekly tuition fee × weeks in default period
= \$191 × 10 = \$1,910

Under section 7 of the new refund specification, Sabrina's refund would be \$1,910.

Note that the same calculation would also apply under section 8 of the refund specification if the provider and Sabrina had not entered into a written agreement that complied with section 47B of the ESOS Act.

Sections 9 and 10 of the refund specification—Student default in the event that a student fails to start a course due to visa refusal or where a student commences a course and subsequently has a visa refused.

Sections 9 and 10 of the refund specification outline the refund calculations that apply in circumstances where a student defaults due to their visa being refused, but the provisions take into account whether the student has or has not commenced the course. Many students default as a result of their visa being refused while they are still in their home country/offshore. However, there

may be circumstances where a student is already onshore and commences a course while awaiting the outcome of a new visa or extension of their visa.

Section 9 of the refund specification applies where the student has been refused a visa and has not commenced the course. This provision aligns with the original intent of the student default refund in other cases provision, which was intended to ensure that providers refunded all course fees to a student (not only those paid before commencement of the course), except for a modest sum a provider could retain for administrative costs. This provision recognises both the need to protect students who have often paid large sums of fees in advance as well as the time and resources a provider may have invested in recruiting students.

The calculation therefore requires providers to work out the deductions for meeting administrative costs based on the 'total course fee'- that is, both tuition and non-tuition fees paid. This rectifies the unintended consequences of the previous provisions of the ESOS Act and legislative instrument, which based the refund calculation solely on tuition fees.

EXAMPLE 2: Student default in the case of visa refusal (before student commences course)

Julia lives in Germany and has paid \$15,000 tuition fees and \$5,000 non-tuition fees to a provider for a course. She is due to leave Germany in April to start the course. In January the Department of Immigration and Border Protection contact her and advise her visa has been refused. Julia informs her provider of the refusal of her visa, and withdraws from the course before it starts. Julia's provider must now calculate her refund under section 9 of the refund specification.

Refund calculation under section 9 of the refund specification:

a) Total course fee* minus the lesser of:

- (i) 5% of the amount of course fees received by the provider before the default day, or
- (ii) \$500

(*Course fees = tuition fees + non-tuition fees received by the provider in respect of the student)

Calculation:

b) Total course fee = \$15,000 + \$5,000 = \$20,000 minus the lesser of:

- (i) 5% of \$20,000 (course fees) = \$1,000
- (ii) \$500

Therefore the lesser of (i) \$1,000 and (ii) \$500 is \$500

Refund amount: Total course fee minus (ii)
= \$20,000 - \$500 = \$19,500

Under section 9 of the refund specification, Julia's refund would be \$19,500.

Section 10 of the refund specification relates to student default in the case where a student's visa has been refused but where the student has already commenced the course. This may occur when a

student is already onshore and has applied for a new visa (refer to Example 3). It aims to balance the student's right to receive a refund of the unspent tuition fees and the right of the provider to retain the portion of fees for the part of the course that has already been delivered. This will result in a fairer outcome for both students and providers in the limited circumstances where this may apply.

In cases where a student has commenced the course non-tuition fees are not required to be refunded. The reason for this is that non-tuition fees, such as text books or uniforms, which the student has used for the portion of the course they have studied, are not recoverable by the provider. However, as noted above, the amounts of refunds calculated in accordance with the refund specification are minimum amounts, and providers are able to refund higher amounts if they wish.

EXAMPLE 3: Student default in the case of visa refusal (after the student has commenced the course)

Rani is living in Sydney and has just completed a Certificate IV in Hospitality. She decides she would now like to undertake a 40-week (280 calendar day) VET Diploma, and she applies for a new visa.

The tuition fees for the whole course are \$10,000, but Rani pays \$5,000 tuition fees up front for the first half (140 calendar days) of the course.

Rani also pays the provider \$500 in non-tuition fees.

Rani starts the course while awaiting the outcome of her new visa. Two weeks into the course she is refused a visa. She informs her provider and withdraws from the course with effect from the day she was refused the visa (14 calendar days into the course).

Refund calculation under section 10 of the refund specification:

a) Weekly tuition fee = (total tuition fee / number of calendar days in the course) × 7

b) Weeks in default period =
$$\frac{\text{number of calendar days from the default day to the end of the period to which the payment relates}}{7}$$

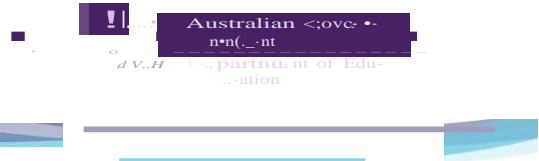
c) Weekly tuition fee × weeks in default period = Refund amount

Calculation:

a) Weekly tuition fee = (\$10,000 / 280) × 7 = \$250

b) Default occurs at day 14, therefore number of calendar days between the default day¹ and the end of the period to which the payment of \$5000 relates (140 days) is 140 days minus 14 = 126 days
(126 / 7) = 18 (weeks in default period)

¹ When counting the number of calendar days from the default day to the end of the period to which payment relates, the default day is not included in the count – subsection 36(1) *Acts Interpretation Act 1901*.



- c) Refund amount: Weekly tuition fee x weeks in default period
= \$250 x 18 = \$4,500

Under section 10 of the refund specification, Rani's refund of tuition fees would be \$4,500.
The provider is not required² to refund Rani the non-tuition fees she paid.



² As noted above, the amounts of refunds calculated in accordance with the refund specification are minimum amounts, and providers are able to refund higher amounts if they wish.