

## **EXPLANATORY STATEMENT**

### ***Education Services for Overseas Students (ASQA Registration Renewal Application Period) Determination 2019***

Issued by the authority of the Australian Skills Quality Authority (ASQA)

**Subject:** *Education Services for Overseas Students (ASQA Registration Renewal Application Period) Determination 2019*

#### **Authority**

Section 10D(3) of the *Education Services for Overseas Students Act 2000* (ESOS Act) allows an ESOS agency for a registered provider to determine, by legislative instrument, the period within which applications to renew registration under section 10D must be made.

Section 6C of the ESOS Act prescribes that the national VET regulator is the ESOS agency for a provider to the extent that it is a registered VET provider. Section 6 of the *Education Services for Overseas Students (ESOS Agency-ELICOS and Foundation Programs) Determination 2016* prescribes that the national VET regulator is also the ESOS agency for specified providers that provide English Language Intensive Courses for Overseas Students (ELICOS).

Section 5 of the ESOS Act defines the National VET Regulator as having the same meaning as in the *National Vocational Education and Training Regulator Act 2011* (the NVR Act). ASQA is established as the national VET regulator under Part 7 of the NVR Act and Part 4 of the *National Vocational Education and Training Regulator Regulations 2011* (NVR Regs).

Section 157(1) of the NVR Act prescribes the functions of ASQA, including:  
(q) such other functions as are conferred on the Regulator by or under:  
(ii) the *Education Services for Overseas Students Act 2000* or any other law of the Commonwealth

ASQA applies fees payable for lodgement and assessment of applications for registration, including renewal of registration, under the ESOS Act in accordance with the *Australian Skills Quality Authority Instrument fixing fees No.1 of 2013*.

#### **Purpose and Description of the provisions**

The purpose of the instrument is to set out the period within which applications under Section 10D of the ESOS Act must be made.

Under section 10D of the ESOS Act, a registered provider may apply to ASQA to renew the provider's registration to provide a course or courses at a location or locations to overseas students. Where ASQA is the ESOS agency for the registered provider, the application must be made to ASQA, and all applicable registration application lodgement and assessment fees paid, within the period determined in this legislative instrument pursuant to subsection 10D(3).

## **Consultation**

ASQA invites feedback submissions via [risk@asqa.gov.au](mailto:risk@asqa.gov.au) until close of business on 1 March 2019.

## **Commencement**

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003* and will commence on the day after registration on the Federal Register of Legislation.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Education Services for Overseas Students (ASQA Registration Renewal Application Period) Determination 2019**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The purpose of the instrument is to set out the period within which applications must be made for the purposes of Section 10D of the *Education Services for Overseas Students Act 2000*. These applications are applications for renewal of registration of providers on the Commonwealth Register of Institutions and Courses for Overseas Students.

### **Human rights implications**

The Instrument engages the right to education, contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. In particular, this instrument has an effect on the provision of education services by vocational education providers.

To the extent that the right to education is engaged, this right is promoted by the Legislative Instrument.

### **Conclusion**

This Instrument is compatible with human rights because it advances the protection of human rights.

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Mark Paterson AO  
Chief Commissioner  
Australian Skills Quality Authority