

Part 6: Criteria for Approval and Renewal of Approval

6.1 Overview of criteria for approval

An education institution whose name is included in Schedule 1 of the *Higher Education Act 2001* or an education institution registered under section 5 of the Act may apply for approval to provide specified courses to overseas students under the provisions of section 10 of the Act. Approval will be granted only if the Director-General is satisfied that the institution complies with the Commonwealth's *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2001* (the National Code) and relevant requirements of the *Education Services for Overseas Students Act 2000* and the *Education Services for Overseas Students Regulations 2001*. An approval will be reviewed at intervals of not more than five years and may be subject to conditions.

Courses included in applications for approval must be accredited.

In the case of Australian universities:

- They are able to certify themselves that their courses are accredited and they will self-manage the approval process. An inspection of their premises will not be required so long as the provision in question is made solely by that university and is delivered in New South Wales as the principal State of origin, as provided in the National Code (Clause 13.9).
- Where a university or other self-accrediting institution proposes to provide courses to overseas students in New South Wales at a distant location or through an agent, the Department must be satisfied that the requirements of National Protocol 5 (Clause 5.5) have been met and National Protocol 4, where relevant.

In the case of non self-accrediting institutions:

- They must provide evidence to the Department of Education and Training that their courses are accredited. Their applications for approval will not be referred to an advisory committee. They will be evaluated by the Department against the assessment criteria for approval at Parts 6.3 and 6.4 of these guidelines. The Department's evaluation will include an inspection of the premises to be used for delivering courses to overseas students and the student record systems for overseas students, and will include interviews with the provider's management and staff.
- Where an institution lodges an application for approval with its applications for registration and accreditation, the Department may liaise with the advisory committee assessing the registration and accreditation applications to ensure that resources and facilities for both local and overseas students are appropriate and adequate.

Requirements for registration on the *Commonwealth Register of Institutions and Courses for Overseas Students* (CRICOS) are set out in Clauses 13.1-13.13 of the National Code. A provider's obligations are identified in Clauses 14-51 of the National Code. The CRICOS requirements are as follows:

- Only courses that are delivered as full-time courses in Australia can be registered on CRICOS.
- Registration of a course on CRICOS must include its duration.
- Where more than one provider is involved in providing a CRICOS-registered course, only one provider may be registered for that course.
- Associations of providers that are not in their own right providing courses must not be registered.
- The provider must meet Australian residency requirements.
- The provider must be a 'fit and proper' person to be registered.
- Inspection of premises is required before and during the period of CRICOS registration, with both scheduled and unscheduled visits (apart from Australian universities).
- The maximum period of CRICOS registration is five years.
- CRICOS registration must specify the maximum number of overseas students the provider can teach, having regard to its capacity and the number of other students enrolled.

6.2 Applications from non self-accrediting institutions

An application for approval must address the New South Wales and Commonwealth requirements. An applicant must provide evidence that the institution seeking approval is registered and the courses to be provided to overseas students are accredited. Alternatively, it may advise the Department that its application for approval is associated with applications for registration and accreditation (as will be the case when an education institution simultaneously submits applications for registration, accreditation and approval).

The Department of Education and Training's Recognition Services Directorate will examine the application to ensure that requirements have been met and it will evaluate the provider's capacity to provide courses to overseas students. If the Department is satisfied that the criteria have been met, it will report to the Director-General recommending that the institution be approved to provide specified courses to overseas students. Where approval is granted, the Department will notify the institution in writing and will also notify the Department of Education, Science and Training requesting that the institution and the specified courses be included on CRICOS.

The following submission framework should be used to provide the information required for approval. Content for each section is set out at paragraphs 6.2 to 6.4 below. A checklist for an application for approval is at Appendix 12.

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6.3 (Section 1) Institutional and course information

Section 1 must be submitted with the first application for approval. A new Section 1 must be provided with each application submitted to the Department to have additional courses included on the CRICOS register during the normal five-year period of approval.

- 1.1 Name of institution** State the institution's registered name.
- Provide any trading names that will be associated with the institution's provision of courses to overseas students.
- 1.2 Registration status** Provide evidence of the institution's current registration status under the *Higher Education Act 2001*. If registered, state the date when the registration was granted and the expiry date. (The letter from the Director-General advising of the granting of registration would be appropriate evidence.)
- If the institution is not currently registered, but an application for registration has been submitted to the Department, state the date when the application was lodged.
- 1.3 Co-delivery arrangements** (See National Code, Clauses 13.4 –13.5.)
- Where more than one institution is involved in delivering the course(s), the Director-General will determine which institution will be approved for providing courses to overseas students. Arrangements with another provider must be considered as part of the application process.
- If relevant, give details of any such arrangements and provide evidence of which provider will be responsible under the National Code and the *ESOS Act 2000*, including responsibility for advertising and for money paid by students for courses.
- CRICOS registration is not transferable.
- Where relevant, provide evidence of written agreements with other providers to ensure that the appropriate provider is issuing the qualification(s).
- (Associations of providers that are not providing courses in their own right will not be registered.)
- 1.4. Name of specified course(s)** State the name of the course or courses for which approval is sought, including the full title and level of qualification, using the AQF terminology.
- 1.5 Course accreditation status** Provide evidence of the accreditation status of the specified course(s), including the name of the accrediting authority, the date accreditation was granted and the expiry date.

(The letter from the Director-General advising of the granting of accreditation would be appropriate evidence.)

If the course is not currently registered, but an application for accreditation has been submitted to the Department, state the date when the application was lodged.

1.6 Duration of course(s)

(See National Code, Clauses 13.1-13.3.)

For each course in this application, specify the total duration in weeks, including breaks, determined on the basis of the normal amount of full-time study required to complete the course.

Courses for overseas students must be full-time only and may not be delivered by the distance mode. The submission must demonstrate that the total demands of the course constitute full-time study as well as the scheduled contact hours.

Normally, the minimum requirement for 'full-time' study is of the order of 20 contact hours per week, as an average, for a term or semester. An academic year must not be less than 36 weeks.

Duration must not exceed the time required for completing the course on the basis of a normal full-time load, and it must not include any period of work-based training unless this training is a mandatory requirement of the course. Any mandatory training must be included in the full-time course duration.

Students need not be enrolled full-time in the final semester of their course in cases where they are required to repeat units of study. A student is not permitted to repeat a unit more than once. Provide evidence that these requirements are being met by using documented course information about duration, workload, mode and timetabling.

1.7 Modes of study

(See National Code, Clauses 13.1–13.2.)

As courses for overseas students must be full-time, indicate whether the course(s) in this application will be delivered to overseas students in the same mode as local students and explain any differences.

1.8 Methods of delivery

Where overseas students are to be enrolled in course(s) delivered through concentrated or abbreviated time frames, provide evidence that they will be able to achieve the learning outcomes of the course(s). Outline any special delivery arrangements such as concurrent English language assistance and bridging programs to help overseas students achieve the specified learning outcomes.

1.9 Tuition fees State the tuition fees to be charged to overseas students for each course included in this application.

1.10 Anticipated enrolments Provide information about the anticipated enrolment numbers for overseas students in each course included in this application, and the enrolment projections for the period of the approval.

6.4 (Section 2) Capacity to deliver courses to overseas students

Section 2 provides information about the institution's capacity to deliver courses to overseas students and its compliance with the National Code. Section 2 must be submitted to the Department together with the institution's first application for approval, and it should be reviewed and re-submitted when approval is being renewed following the normal five-year period of approval. Section 2 need not be re-submitted when applications are made to have additional courses approved and included on the CRICOS register during the approval period unless there has been significant change to the institution's ownership, management, premises, administrative, financial, student support services or other areas of operation relevant to delivering courses to overseas students.

2.1 Australian residency

(See National Code, Clause 13.6.)

A CRICOS provider must be a resident of Australia and must carry on business in Australia. In the case of a company, the company is to be incorporated in Australia and have its central management and control in Australia. For an unincorporated body, the body will have its central management and control in Australia.

Provide evidence that the applicant for approval can meet this requirement, including:

- certificate of incorporation of company
- certificate of registration of business name
- name of provider's principal executive officer (PEO)
- address of provider's place of business and postal address
- provider's contact details
- address of provider's registered office if provider is not an individual.

2.2 'Fit and proper' status

(See National Code, Clause 13.7.)

A provider must be 'fit and proper' to be registered on CRICOS to deliver courses to overseas students (unless exempt), as required by the *ESOS Act 2000* and the National Code.

To satisfy the Director-General that the applicant would meet this requirement, the institution's PEO must provide a statutory declaration declaring whether the applicant or an 'associate of the provider' (as defined in the *ESOS Act 2000*)

who has been, is or will be in the business of providing courses to overseas students has:

- been convicted of an offence
- been convicted of an offence under the *ESOS Act 2000* or the *ESOS Act 1991* at any time during the past five years
- ever had CRICOS registration cancelled or suspended
- ever had conditions imposed on its CRICOS registration under the *ESOS Act 2000* or the *ESOS Act 1991*
- been bankrupt
- been involved in the provision of a course by another provider who is covered by any of the above points.

A format for the statutory declaration is included at Appendix 5 of these guidelines. Where the applicant has provided a statutory declaration for the purpose of registration as a higher education institution under the provisions of the *Higher Education Act 2001*, including all the points concerning CRICOS listed above, a copy of that declaration may be included in Section 3 of this submission for approval to provide courses to overseas students.

2.3 Changes to institution's details

(See National Code, Clause 14.)

Provide details of the procedures the institution has in place to ensure that it advises the Department, in writing, of any changes in ownership, management or premises within 14 days.

(Also refer to Part 4.3 of these guidelines concerning changes to institutional information.)

2.4 Tuition Assurance Scheme

The *ESOS Act 2000* requires that a provider registered on CRICOS must at all times be a member of a Tuition Assurance Scheme (TAS) unless exempt from this requirement.

Identify the TAS concerned for the institution and give details of membership. Provide evidence of current membership.

If exempt, provide evidence of exemption status.

2.5 ESOS Assurance Scheme

This requirement will be managed by the Department of Education, Science and Training.

2.6 *ESOS Act 2000*

Describe the institution's procedures to ensure it maintains compliance with the *ESOS Act 2000*.

Procedures for compliance with the *ESOS Act 2000* should be part of the institution's systems for managing the

oversight, maintenance and development of its overseas students program.

Information about this Act can be located at www.dest.gov.au/esos.

2.7 National Code

(See National Code, Clause 50.)

Describe the institution's procedures to ensure it maintains compliance with the National Code.

Demonstrate that the institution has the capacity to satisfy the National Code, including appropriate policies and procedures for handling complaints and refunding students' fees.

Provide evidence that the institution's staff will be made aware of their responsibilities under the National Code, and describe the procedures for ensuring that staff will meet their responsibilities.

2.8 Maximum number of students

(See National Code, Clause 13.13.)

State the maximum number of places the institution intends to make available to overseas students. The number must be specified taking account of the institution's capacity to provide courses to overseas students *and* the number of local students enrolled.

Provide evidence that the maximum number of overseas students specified is in accordance with these considerations.

This number will be included on the CRICOS register as the maximum number of student visas that can be issued for the institution at any one time.

2.9 Teaching staff

(See National Code, Clause 15.)

There must be a sufficient number of teaching staff who, when taken as a whole, have the appropriate qualifications, experience, induction and professional development for the delivery and assessment of the courses in the application, taking account of the number of students.

Provide evidence that there will be adequate teaching staff who will all have appropriate subject content qualifications higher than that being provided to overseas students.

2.10 Resources and facilities

(See National Code, Clause 16-18.)

Provide evidence that:

- teaching resources, including technological resources, will be appropriate and adequate for the number of students in terms of space and facilities
- floor space per student in general classroom areas is not less than 2 sq. metres if brought into use after 1 July

2001 and 1.6 sq. metres if brought into use before that date

- timetabling arrangements will be appropriate for both overseas and local students
- facilities and equipment comply with relevant legislation such as fire regulations and occupational health and safety
- lease or ownership arrangements are appropriate to enable course completion
- students will be given at least 21 days notice prior to any relocation.

2.11 Student recruitment/selection (See National Code, Clauses 26-30.)

Describe how the institution will ensure that the recruitment and selection of overseas students are conducted in an ethical and responsible manner, and that offers of admission will be based on the authorised entry criteria for the course(s) and that intending students will be given accurate details about course and attendance requirements.

Provide evidence that:

- requirements for English language proficiency are documented and will be given to students when an enrolment offer is made
- entry requirement qualifications and experience for courses are clearly documented
- suitably qualified people will assess the English language proficiency and other entry requirements
- offers of course placements will reflect the assessment of a student's existing qualifications and proficiency.

Show that assessment of English language proficiency will be based on one of the internationally recognised English language proficiency tests.

2.12 Recognition of prior learning (National Code, Clauses 31-33.)

If the provider intends to grant an overseas student recognition of prior learning (RPL), the institution must have a formal process for conducting and recording RPL.

Provide evidence that:

- the RPL policy has been documented
- where RPL will be granted, this will be recorded and validated with relevant overseas students' signatures, and filed on their records.
- demonstrate that National Code requirements (Clause 32) for granting RPL *prior to* and/or *after* visa grant, will be met.

2.13 Marketing

(See National Code, Clauses 19–25 & 49.)

Describe how the institution will ensure that:

- its advertising and promotional materials for overseas students provide accurate and unambiguous information
- its marketing material is consistent with the cultural and regulatory systems of the countries where its courses will be marketed
- its agents will act in the best interests of overseas applicants and the provider
- its marketing materials and its agents will not detract from the good reputation and interests of other Australian institutions nor make negative comparisons and/or derogatory statements about them.

Show how the institution will ensure that its agents within and outside Australia will comply with the National Code relating to marketing, recruiting and student information.

Provide evidence of electronic and/or written marketing material and information to be given to students which:

- upholds the reputation of Australian international education and training
- does not draw false or misleading comparisons with other providers and courses
- does not make inaccurate claims about associations with other providers or organisations
- does not give inaccurate advice about acceptance into another course.

For each course in this application for approval, demonstrate that the institution's marketing and information material will include:

- a general description of the course content and objectives
- the qualification to be conferred on completion
- duration and workload
- course structure
- methods of delivery, including any workplace training and/or field trips
- assessment methods
- details and location of any other provider involved in course delivery
- recognition of the course by other providers and professional bodies in Australia
- general description of the available facilities, equipment and learning resources
- course entry requirements, including the minimum English language proficiency

- details of the local environment in which the institution is located and the indicative costs of living.

Provide evidence that:

- the institution has procedures in place to review the practices of its agent(s)
- suitable action will be taken if it appears that the agent(s) may be acting inappropriately.

Demonstrate that the provider name and CRICOS number will be included in all offers to overseas students.

2.14 Agreements for refunds

(See National Code, Clauses 42–44.)

A provider registered on CRICOS is obliged to pay a refund to students in certain circumstances where the provider defaults and also where the student defaults.

Provide evidence of how the institution will meet the refund requirements for both student default and provider default, and demonstrate that students will be given appropriate information on refunds prior to payment of any fees.

If the institution enters into a written agreement with an overseas student regarding refunds following student default, show how the agreement is to be documented and provided to the student prior to enrolment.

2.15 Student records

(See National Code, Clauses 34, 37, 38, 41.)

Provide evidence that the institution's record systems will ensure that:

- records are kept for all accepted overseas students who have enrolled or paid course money
- records of course money paid/not yet paid are maintained
- students' current residential address is kept up-to-date
- academic performance is monitored for each requirement of a course
- records are kept for at least two years after an overseas student ceases.

(Attendance records are not required for students studying for a higher education qualification.)

2.16 Student support services

(See National Code, Clauses 45–48.)

Appropriate support services must be in place for students' health, welfare, safety and academic progress. They must include independent and inexpensive procedures for dispute resolution. The institution must be able to demonstrate the advice it will give to intending students about the support services it provides.

Provide evidence that, on arrival, students will be given access to information and counselling about orientation, academic progress, further study and accommodation.

For overseas students aged less than 18 years, demonstrate how the institution will discharge its responsibilities under child protection legislation, and for accommodation and welfare arrangements.

There should be adequate activities to provide an appropriate level of academic and cultural orientation for overseas students, including assistance with financial planning.

A suitably qualified staff member should be the contact officer for overseas students and should be known as such to all the institution's overseas students. This staff member should be responsible for overseeing the provision of support services, including counselling services. Provide evidence of how these requirements will be met.

For each staffing position specifically involved with managing and administering the institution's overseas students program and providing support and welfare services, give details of the title, qualifications and required skills. Explain how the institution will ensure that all staff dealing with overseas students are made aware of their responsibilities to these students.

2.17 Personal information

(See National Code, Clause 51.)

Demonstrate that, before enrolment, overseas students will be made aware that information about them may be made available to relevant Commonwealth and State government agencies.

6.5 Section 3 (Supporting documentation)

The following documentation should be provided in Section 3 of the submission for approval. Additional material may be included where an applicant considers it appropriate for supporting the application. Where an application for approval is made simultaneously with applications for registration and/or course accreditation, cross-referencing may be used for the supporting documentation, where relevant.

Provider the following:

- copies of business registration documents to demonstrate Australian residency
- the statutory declaration to establish applicant's 'fit and proper' status
- floor plans of buildings used for delivery of courses to overseas students
- floor plans with dimensions for general purpose classrooms, identifying those brought into service before and after 1 July 2001

- copies of policies and procedures to ensure compliance with the National Code and the *ESOS Act 2000*
- copies of policies and procedures for overseas student refunds
- copies of agreements in relation to provision of student welfare services and student accommodation
- resumes and duty statements for staff positions to support overseas students
- marketing material
- copy of the institution's Student Handbook, its prospectus for overseas students, and application forms for overseas students.