



The Scots College
Sydney Australia

Default Policy (Overseas Students)

It is the College's policy to ensure that in the event of either a default by the College, as a registered provider, or the student, we will follow all the notification and refund processes and procedures prescribed by the *Education Services for Overseas Students Act 2000* (ESOS Act).

Meaning of Registered Provider

The College, as a registered provider, is bound by the default requirements under section 46A of the ESOS Act.

Under section 46A, the College defaults if:

- either of the following occurs:
 - the College fails to start to provide the course to the overseas student at the location on the agreed starting day; or
 - the course ceases to be provided to the overseas student at the location at any time after it starts but before it is completed; and
- the overseas student has not withdrawn before the default day.

The College will also default if a sanction is imposed on it under the ESOS Act which prevents it from providing a course.

Exceptions to College default circumstances exist, including where the overseas student defaults.

Our Obligations if the College Defaults

Section 46D of the ESOS Act sets out the College's obligations to an overseas student or intending overseas student if the College defaults on the provision of a course.

The College will discharge its obligations to the overseas student if:

- both of the following apply:
 - the College arranges for the overseas student to be offered a place in an alternative course at the College's expense; and
 - the overseas student accepts the offer in writing; or
- the College provides a refund (see Overseas Students Refund Policy).



Provider Obligation Period

The College must discharge its obligations to the overseas student within 14 days after the default day (**Provider Obligation Period**).

It is an offence under the ESOS Act for the College to fail to comply with its obligations under section 46D.

Meaning of Overseas Student Default

Under section 47A of the ESOS Act an overseas student default if:

- the course starts on the agreed starting day, but the overseas student does not start the course on that day (and has not previously withdrawn); or
- the overseas student withdraws from the course (either before or after the agreed starting day); or
- the College refuses to provide, or continue providing, the course to the overseas student because of one or more of the following events:
 - the overseas student failed to pay an amount they were liable to pay the College, directly or indirectly, in order to undertake the course;
 - the overseas student breached a condition of their visa;
 - misbehaviour by the overseas student.

An overseas student won't be classified as defaulting if the reason why an overseas student does not start a course on the start day is because the College fails to provide the course to the overseas student on the agreed starting day (Registered Provider Default).

In relation to overseas student misbehaviour, an overseas student won't be considered to have defaulted unless the College accords them natural justice before refusing to provide, or continue providing, the course to the overseas student.

Notification of Overseas Student Default

Under section 46B of the ESOS Act the College must provide written notice to the Commonwealth (Cth) Department of Education (DET) and the Director of the Tuition Protection Service (TPS) of a default by the College within three business days of the default occurring.

The notice must include the following:

- the circumstances of the default
- the details of the overseas students in relation to whom the College has defaulted
- advice as to:
 - whether the College intends to discharge its obligations to those overseas students under section 46D; and
 - if appropriate, how the College intends to discharge those refund obligations.

The College also needs to give written notice of the default to the overseas students affected by the default.

Notification of Discharge of Obligations

Under section 46F of the ESOS Act the College must provide notice to the Cth DET and the Director of the TPS within seven days after the end of the Provider Obligation Period.

The notice must include the following:

- whether the College discharged its obligations towards the overseas student under section 46D
- if the College arranged alternative courses:
 - details of the overseas students the College provided arranged alternative obligations for; and
 - details of the courses arranged; and
 - evidence of each overseas student's acceptance of an offer for a place in an alternative course;
- if the College provided refunds:
 - details of the overseas students the College provided refunds to; and
 - details of the amounts of the refunds provided.

Refunds

Refer to our Overseas Students Refund Policy.

Record Keeping

The College maintains evidence of compliance with this policy by maintaining records of default notifications received by the College and any decisions made in relation to such notifications.

Records will be maintained in accordance with our Overseas Students Records Management and Retention Policy.