

## EDUCATION, SCIENCE AND TRAINING

### SENATE LEGISLATION COMMITTEE - QUESTIONS ON NOTICE 2004-2005 BUDGET ESTIMATES HEARING

**Outcome:** 3  
**Output Group:** 3.3 – AEI Group

#### DEST Question No. E150\_05

Senator Carr asked on 3 June 2004, EWRE Hansard page 72.

#### Question:

(a) Please provide details of the reasons for cancellation, suspensions and imposition of conditions on providers covered by documents tabled by the Department in February 2004 and in question on notice E762\_04.

(b) Of the providers referred to in the tabled documents, which providers remain suspended?

#### Answer:

*Reasons for cancellations, suspensions and imposing conditions*

#### Cancellation of Registration

##### 1. Australian International College of Business Pty Ltd

The Australian International College of Business Pty Ltd (AICB) provided a course in New South Wales for which it was not registered. On this basis, the Minister's delegate was satisfied there were reasonable grounds that AICB had breached section 8 (providing a course without a registered provider) of the *Education Services for Overseas Students Act 2000* (the Act).

By enrolling overseas students in the unregistered course, the Minister for Education Science and Training's delegate considered that AICB misled the Minister for Immigration and Multicultural and Indigenous Affairs to believe that the students were enrolled in a registered course when AICB was not, in fact, registered to provide that course in New South Wales. On this basis, the Minister for Education Science and Training's delegate was satisfied there were reasonable grounds that AICB had breached section 15 (registered providers must not engage in misleading or deceptive conduct) of the Act.

AICB did not give information about the change of identity of the course to certain students to the Secretary of DEST within 14 day after the change. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AICB had breached section 19 (giving information about accepted students) of the Act.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and cancelled AICB's registration for all courses.

##### 2. Australian College of Technology Pty Ltd

An associate of the Australian College of Technology Pty Ltd (ACT) failed to produce all of the information or documents required by two Production Notices. On this basis, the Minister's

delegate was satisfied there were reasonable grounds to believe ACT had breached section 120 (failing to comply with a notice) of the Act.

ACT failed to provide to the Secretary of DEST details of the change in the identity of the courses for 16 students and also failed to give the Secretary of DEST details of the change in the duration of the course for 41 students. Further, ACT failed to provide to the Secretary of DEST particulars of the breach of their student visa condition relating to attendance for 19 students. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe ACT had breached section 19 (giving information about accepted students) of the Act.

ACT did not provide written notice to 19 overseas students that they breached a student visa condition relating to attendance. On this basis, the Minister's Delegate was satisfied that there were reasonable grounds that ACT had breached section 20 (sending students notice of visa breaches) of the Act.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and cancelled ACT's registration for all courses.

### 3. College of International Business Pty Ltd

The College of International Business Pty Ltd (CIB) failed to pay the Annual Registration Charge (ARC) and Late Payment Penalty (LPP) for 2001. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe CIB had breached section 23 (payment of the annual registration charge) of the Act.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and cancelled CIB's registration for all courses.

### 4. Frankarens Pty Ltd

Frankarens Pty Ltd (Frankarens) provided a course in New South Wales for which it was not registered. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Frankarens had breached section 8 (providing or promoting a course without a registered provider) of the Act.

The Minister's delegate considered that by enrolling overseas students in its business courses by creating and issuing CoEs with a course identity of information technology and by using its CRICOS registration for the express purpose of recruiting overseas students into a business course, a course which was not registered on CRICOS, Frankarens misled the Commonwealth to believe that the students were enrolled in an information technology course when, in fact, it was providing the business courses to students. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Frankarens had breached section 15 (misleading and deceptive conduct) of the Act.

Frankarens failed to give the Secretary of DEST particulars of the breach of student visa conditions relating to attendance for 37 overseas students and failed to send these students written notice that they had breached the student visa condition relating to attendance. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Frankarens had breached section 19 (giving information about accepted students) and section 20 (sending students notice of visa breaches) of the Act.

Frankarens failed to identify its CRICOS number and registered provider name on its website. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Frankarens had breached section 107 (failing to identify the registered provider) of the Act.

Frankarens failed to advise the NSW Vocational Education and Training Accreditation Board within 14 days of a change in ownership/management; did not have the technological resources appropriate for the delivery of its CRICOS-registered courses or that were adequate for the number of students under instruction; was promoting and inviting overseas students to enrol in an unregistered course; did not have procedures in place for advising DIMIA via PRISMS or to make staff aware of their obligations to use PRISMS to report student failure to meet attendance requirements; and failed to inform staff about their relevant responsibilities under the Act and the National Code. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Frankarens had breached paragraphs 14 (advise in writing any change in ownership), 16 (maintain teaching records), 19 (marketing and student information), 21 (marketing and student information) and 39 (student records) of the National Code Practice for Registrations Authorities and Providers of Education and Training to Overseas Students (the National Code).

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and cancelled Frankarens' registration for all courses.

#### 5. International Management Centres Association Limited

The International Management Centres Association Limited (IMCA) did not refund course money to 32 overseas students who were entitled to a refund. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe IMCA had breached section 29 (refunds of course money) of the Act.

In these circumstances, on 3 October 2003, the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and cancelled IMCA's registration for all courses.

#### 6. New South Wales International College Pty Ltd

An associate of the New South Wales International College Pty Ltd (NSWIC) failed to produce all of the information or documents required by a Production Notice. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe, that NSWIC had breached section 120 (failing to comply with a notice) of the Act.

NSWIC failed to deliver a course on the agreed starting day and failed to pay a refund to eight overseas students within 2 weeks of the default day. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe, that the College had breached section 29 (refund in other cases) of the Act.

The Minister's delegate considered that NSWIC created CoEs for three overseas students to enrol in a course with the full knowledge that none of the students would be undertaking that course. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe that NSWIC had breached section 108 (providing false or misleading information) of the Act.

NSWIC advised two overseas students that NSWIC was in a "partnership" arrangement with the University of New England (UNE) and they could enrol in a UNE Masters at NSWIC. NSWIC had no arrangements or agreements with UNE. By doing so, the Minister's delegate considered that the College misled the students. On this basis, the Minister's delegate was satisfied there

were reasonable grounds to believe, that NSWIC had breached section 15 (registered providers must not engage in misleading or deceptive conduct) of the Act.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and cancelled NSWIC's registration for all courses.

#### 7. Schutt Flying Academy (Australia) Pty Ltd

The Schutt Flying Academy (Australia) Pty Ltd (the Academy) was not a member of a Tuition Assurance Scheme (TAS). On this basis the Minister's delegate was satisfied there were reasonable grounds to believe, that the Academy had breached section 22 (registered providers must belong to a tuition assurance scheme) of the Act.

The Academy failed to pay the Annual Registration Charge (ARC) and Late Payment Penalty (LPP) for 2002. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the Academy had breached section 23 (payment of the annual registration charge) of the Act.

The Academy failed to pay the annual ESOS Assurance Fund contribution for the period of 4 June 2001 to 31 December 2001. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe, that the Academy had breached section 24 (payment of the annual ESOS Assurance Fund contributions) of the Act.

The Academy did not refund course money to an overseas student who was entitled to a refund. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe the Academy had breached section 29 (refunds of course money) of the Act.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and cancelled the Academy's registration for all courses.

### **Suspension of Registration**

#### 1. Australian International College of Commerce and Business Pty Ltd

The Australian International College of Commerce and Business Pty Ltd (AICCB) closed its doors, all staff were stood down and all work was suspended. In these circumstances, the Minister's delegate considered that AICCB did not possess teaching resources and was unable to provide instruction and tuition to its students. On this basis, the Minister's delegate was satisfied there were reasonable grounds that to believe AICCB had breached paragraphs 16 and 17 (educational resources and facilities) of the National Code.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and suspended AICCB's registration for all courses.

#### 2. Bold Park Parents Advisory Council

Bold Park Parents Advisory Council (Bold Park) failed to pay the Annual Registration Charge (ARC) for 2003. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the Academy had breached section 23 (payment of the annual registration charge) of the Act.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and suspended Bold Park's registration for all courses.

3. Marrickville Commercial College Limited

Marrickville Commercial College Limited (the College) did not keep a record of overseas students' attendance at the courses for which they were enrolled as required by paragraph 35 of the National Code because the College relied on electronically kept records as the record of an overseas student's attendance. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the College had breached paragraph 35 (student records) of the National Code.

The Minister's delegate considered that the College's attendance recording practices were such that overseas students or others could create false attendance records. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the College had breached paragraph 37 (student records) of the National Code.

The Minister's delegate considered that the College did not ensure that attendance of all overseas students was recorded systematically. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the College had breached paragraph 39.1 (student records) of the National Code.

An associate of the College failed to produce all of the information or documents required by two Production Notices. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe ACT had breached section 120 (failing to comply with a notice) of the Act.

In these circumstances, on 1 March 2002, the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and suspended the College's registration for all courses.

4. Divine Mercy College Inc

Divine Mercy College Inc (the College) failed to pay the Annual Registration Charge (ARC) for 2003. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe the Academy had breached section 23 (payment of the annual registration charge) of the Act.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and suspended the College's registration for all courses.

5. Radiance Australasia Pty Ltd

Radiance Australasia Pty Ltd (Radiance) failed to give the Secretary of DEST the name or other prescribed details of an accepted student and details of five accepted students who did not begin their courses when expected. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Radiance had breached section 19 (giving information about accepted students) of the Act.

Radiance failed to give the Secretary of DEST particulars of the breach of student visa conditions relating to attendance for 34 overseas students and failed to send these students written notice that they had breached the student visa condition relating to attendance. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Radiance

had breached section 19 (giving information about accepted students) and section 20 (sending students notice of visa breaches) of the Act.

Radiance failed to keep records of an accepted student who was enrolled and who had paid course money. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Radiance had breached section 21 (record keeping) of the Act.

An associate of Radiance failed to produce all of the information or documents required by a Production Notice. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Radiance had breached section 120 (failing to comply with a notice) of the Act.

The Minister's delegate considered that Radiance failed to understand its obligations to keep student records relating to academic performance and attendance and admitted they did not understand the requirements of the National Code in respect of leave and course deferral. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Radiance had breached paragraphs 37, 38 and 39 ((student records) of the National Code.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and suspended Radiance's registration for all courses.

#### 6. The Television Typing Centre Pty Ltd (SA)

The Television Typing Centre Pty Ltd (the Centre) closed its doors, all staff were stood down and all work was suspended. In these circumstances, the Minister's delegate considered that the Centre did not possess teaching resources and was unable to provide instruction and tuition to its students. On this basis, the Minister's delegate was satisfied there were reasonable grounds that to believe the Centre had breached paragraph 16 (educational resources and facilities) of the National Code.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and suspended the Centre's registration for all courses in South Australia.

#### 7. The Television Typing Centre Pty Ltd (QLD)

The Television Typing Centre Pty Ltd (the Centre) closed its doors, all staff were stood down and all work was suspended. In these circumstances, the Minister's delegate considered that the Centre did not possess teaching resources and was unable to provide instruction and tuition to its students. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AICCB had breached paragraph 16 (educational resources and facilities) of the National Code.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and suspended the Centre's registration for all courses in Queensland.

### **Conditions on Registration**

#### 1. International Management Centres Association Limited

International Management Centres Association Limited (IMCA) provided two courses in New South Wales which it was not registered to do so. On this basis, the Minister's delegate was

satisfied there were reasonable grounds to believe that IMCA had breached section 8 (offence: providing or promoting a course without a registered provider) of the Act.

In these circumstances, on 5 May 2002, the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and imposed conditions on IMCA's registration for two courses.

## 2. Marrickville Commercial College Ltd

Marrickville Commercial College Ltd (the College) did not keep a record of overseas students' attendance at the courses for which they were enrolled as required by paragraph 35 of the National Code because the College relied on electronically kept records as the record of an overseas student's attendance. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the College had breached paragraph 35 (student records) of the National Code.

The Minister's delegate considered that the College's attendance recording practices were such that overseas students or others could create false attendance records. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the College had breached paragraph 37 (student records) of the National Code.

The Minister's delegate considered that the College did not ensure that attendance of all overseas students was recorded systematically. On this basis the Minister's delegate was satisfied there were reasonable grounds to believe the College had breached paragraph 39.1 (student records) of the National Code.

In these circumstances, on 20 March 2002, the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and imposed conditions on the College's registration for all courses.

## 3. Australian International College Pty Ltd

The Australian International College Pty Ltd (AIC) failed to give the Secretary of DEST the details of four accepted students who did not begin their courses when expected. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AIC had breached section 19 (giving information about accepted students) of the Act.

AIC did not give two accepted students written notice that they had breached their student visa condition relating to attendance. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AIC had breached section 20 (sending students notice of visa breaches) of the Act.

An associate of AIC failed to produce all of the information or documents required by two Production Notices. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AIC had breached section 120 (failing to comply with a notice) of the Act.

AIC failed to provide evidence that a member of staff could vouch for the fact that those recorded as attending actually attended on specified days in question. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AIC had breached paragraph 37 (student records) of the National Code.

In these circumstances the Minister's delegate took action under subsection 83(1) (Minister may impose sanctions for non – compliance) of the Act and imposed conditions on AIC's registration for one course.

#### 4. Frankarens Pty Ltd

Frankarens Pty Ltd (Frankarens) failed to give the Secretary of DEST the names and other prescribed details of 20 accepted students and the details of one accepted student who terminated their studies. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Frankarens Pty Ltd had breached section 19 (giving information about accepted students) of the Act.

The Minister's delegate considered that Frankarens failed to understand its obligations to keep student records relating to academic performance and attendance and was unable to provide evidence that a member of staff could vouch for the fact that those recorded as attending actually attended on specified days in question. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe Radiance had breached paragraphs 37, 38 and 39 ((student records) of the National Code.

#### 5. Australian International College of Business Pty Ltd

The Australian International College of Business Pty Ltd (AICB) failed to give the Secretary of DEST the names and other prescribed details of six accepted students; the details of one accepted student who did not commence their course when expected and the change in identity of the course for one accepted student. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AICB had breached section 19 (giving information about accepted students) of the Act.

AICB did not give 41 accepted students written notice that they had breached their student visa condition relating to attendance. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AICB had breached section 20 (sending students notice of visa breaches) of the Act.

An associate of AICB failed to produce all of the information or documents required by two Production Notices. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AICB had breached section 120 (failing to comply with a notice) of the Act.

The Minister's delegate considered that AICB failed to understand its obligations to keep student records relating to attendance and made no provision in their attendance rolls to record student non-attendance due to illness, evidenced by a medical certificate, or other exceptional circumstances beyond the control of the student. On this basis, the Minister's delegate was satisfied there were reasonable grounds to believe AICB had breached paragraphs 37 and 39 (student records) of the National Code.

#### *Suspended providers*

(b) Of the seven providers suspended between 4 June 2001 and 8 January 2004 (the date of the tabled documents) none remain suspended. Six providers have subsequently had their registration cancelled by the relevant State Authority and one provider, Marrickville Commercial College Ltd, has a condition imposed on its registration.