

Ms Amanda Rishworth MP, Committee Chair
House Standing Committee on Education and Employment
House of Representatives
Parliament of Australia
ee.reps@aph.gov.au



Submission Number: 12
Date Received: 6/10/2011

Dear Ms Rishworth

Please find below a submission to the House Standing Committee on Education and Employment by the Queensland Department of Education and Training International.

Yours truly

Ms Joanne House
Executive Director
Queensland Department of Education and Training International

Queensland Department of Education and Training International Submission

Parliamentary Inquiry on the Overseas Student Bill and the Higher Education Support Amendment Bill 2011

- Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011;
- Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011;
- Education Services for Overseas Students (TPS Levies) Bill 2011

The Queensland Department of Education and Training International (DETi) welcomes the opportunity to provide a submission to the House Standing Committee on Education and Employment on the Overseas Student Bill, specifically the proposed ESOS legislative amendments listed above. DETi would be pleased to provide further information to assist the Committee's considerations and would welcome the opportunity to make a presentation to the Committee.

This submission covers the perspective of the schooling sector, and in particular the Queensland Government Schools sector which operates in the interest of ensuring a world class, quality driven, efficient, student friendly education experience for international students.

Background

The Queensland Department of Education and Training (DET) seeks to engage Queenslanders in lifelong learning by providing high quality, accessible services to the state's education and training sectors.

DET International (DETi) contributes to DET's vision by providing strategic leadership for the implementation of the Queensland Government's international education and training policy, strategy and marketing activities.

DETi encompasses Education Queensland International (EQI), the CRICOS-registered international education and training provider for Queensland government schools. EQI activities involve the development and implementation of all international education programs relating to the State school sector. EQI manages the International Student Programs for the Queensland Department of Education and Training. Currently there are 64 schools registered to provide courses for international students, operating under the one CRICOS code (00608A).

General Comments

The draft amendments will provide a significant increase in work load and compliance costs across the International Education industry, particularly for low risk providers such as Government schools, and the Australian school sector. Overall the proposed amendments seem to be aimed at risk management strategies to minimise the consequences of provider default. Michael Knight, in his report "Strategic Review of the Student Visa Program 2011" describes the school's sector as low risk.

One of the key aims of the Baird report is to take a simplified risk based approach to managing the international education industry. EQI endorses this approach, but the proposed "one size fits all" approach to the minimisation of risk may have the inadvertent effect of raising the level of risk for compliant (low risk) providers through the onerous compliance elements which have been proposed. The strengthened penalties for non-compliance will also require that providers are clearly aware of their obligations under the new amendments, so that there are no inadvertent breaches of the amendments. Some of the proposed amendments may need clarification and rewording to ensure clarity of roles and responsibilities of the various stakeholders.

The impact of the proposed amendments may lead to a significant administrative burden on behalf of providers to meet the compliance requirements rather than ensuring industry focus on delivering quality programs and the needs of students. Compliance and regulatory officers' focus should be on appropriate and targeted oversight and regulation of the international education industry. The proposed amendments also seem to conflict with the recommendations of the Knight Review to simplify the regulatory environment for providers and for DEEWR and DIAC.

EQI is of the view that detailed consultation needs to take place across the International Education industry prior to the implementation of some of the proposed amendments to the ESOS Act. Specifically for the low risk schools sector the proposed amendments impose a new range of administrative and compliance tasks to manage risks not inherently part of the sector. Given the risk profile of the school sector, the risk of provider default in relation to Schools providers and Government schools providers in particular is negligible.

Detailed Comments

Proposed Amendments	Current Legislation	Implications	Recommendations
Obligations on registered providers Part 3 / General obligations Division 1, Section 24 – 26 / Schedule 1 Tuition protection service / Part 5			
<p>Implementation of a Tuition Protections Service Levy (TPS) for all registered providers.</p>	<p>Certain Providers including EQI are exempt from the requirement to pay annual fund (TAS) contributions</p>	<p>Establishing an Overseas Student Tuition Fund through a TPS levy for all providers is not an efficient method of risk mitigation of Provider default.</p> <p>The School sector and Government Schools are extremely low risk providers in highly regulated environments. Spreading the cost of regulating high risk providers across the schools sector seems excessive given their risk profile.</p> <p>The proposed establishment of the TPS does not include any information on how the fees will be calculated. The cost of a TPS levy is not within current pricing models or forward planning of exempt providers. Estimates of the cost of the ARC reductions in 2012 and the possible cost of the TPS levy if a provider is deemed to be a low risk provider may result in a cost benefit for such providers, but this is an unknown at present.</p> <p>There will be a significant cost in establishing an entity to administer the proposed TPS and to dismantle the current funds that are operating. It is unclear from the proposed amendments how the new entity will be funded. If it is to be funded by industry rather than DEEWR then the costs of such a body should be clearly articulated for the industry and consultation occur prior to the establishment of such a body.</p> <p>Following on from this, the timeline to establish such a body needs to be realistic and clarity in finalising the operations of current Tuition Assurance Funds need to be considered.</p>	<p>1. That the current exemption criteria for education providers be retained.</p> <p>2. That the regulations and penalties around compliance for high risk providers be strengthened and administered through the regulatory agencies (TESQA, ASQA and State Authorities).</p> <p>3. That Exempt providers be permitted to place students who are impacted in the event of provider default.</p> <p>4. In the event that a TPS is levied against all providers, that appropriate consultation occur with the industry prior to the establishment of the TPS regulatory body and in establishing the TPS Advisory Board, it is suggested that members from each sector of the industry be included.</p>

Proposed Amendments	Current Legislation	Implications	Recommendations
Schedule 6 – Record Keeping pages 103-104			
<p>Student Record Keeping Documented procedure to update student records on at least a 6 months basis.</p> <p>Student's progress in a unit of study is assessed and recorded</p> <p>Student Records retained for a minimum of 2 years.</p>	<p>ESOS Act Section 21</p> <p>National Code Standard 5</p>	<p>The proposed amendments pertaining to Records of Students' details (2B) may require significant process change and allocation of resources in order to record each student's results for each study period and document early intervention strategies that have been implemented into a specified system.</p> <p>Currently PRISMS is not designed to hold intervention notifications and all student results per subject per study period. This amount of information will require significant change in processes and recording functions. It is unclear as to the benefits of such a recording system across such a diverse industry.</p> <p>Each EQI school is responsible for recording the students' contact details and results. The retention of documents is also part of the schools' responsibilities and schools comply with Queensland legislation in relation to retention of documents. EQI currently manages all non-compliance reporting on PRISMS on behalf of its schools in compliance with ESOS and The National Code. Each school manages individual student results record keeping, and inputs information into the departmental student management system. Another form of accountability for Queensland schools is the mandatory reporting to Queensland Studies Authority of all Year 11 and 12 results.</p> <p>The proposed amendment (2A) requires providers to update the contact details of each student at least every six months. It is unclear from the proposed amendments as to whether the provider is required to update PRISMS with any changes to student contact details. In the past providers were required to notify DIAC of any change of details within 7 days of such change. There was an amendment in July 2007 of the ESOS Act and National Code where providers had to maintain current contact</p>	<p>5. That the amendment clarifies the record keeping requirements and system to be used to record such updates.</p> <p>6. If such a system is implemented, EQI would recommend that data is updated within 7 days of any changes. The responsibility of the Regulators may be to audit the mechanisms used to achieve compliance.</p>

Proposed Amendments	Current Legislation	Implications	Recommendations
		details for each student. EQI complies with this requirement.	
Schedule 3 – Pre-Paid Fees Section 5 pre-paid fees / study period			
<p>Study Period. Proposed definition of a study period of a maximum of 24 weeks.</p> <p>The written agreement will need to incorporate the study periods for each international student.</p>	<p>Not defined</p>	<p>Background: Queensland schools operate on a four term per year - two semester per year basis. Depending on the definition of a course, a school student in Queensland could study for</p> <ul style="list-style-type: none"> • Senior secondary - 2 years, Years 11 and 12 • Secondary studies - 5 years, Years 8-12 currently or 6 years from 2015, Years 7-12 • Primary studies – 8 years, Preparatory Year to Year 7 (or 7 years, Preparatory Year to Year 6 in 2015) • Schooling - 13 years, Preparatory Year to Year 12 • A school year is approx 40 to 42 weeks in length. • High School Preparation Program – 20 weeks <p>EQI charges fees on an annual basis, unless the student is in a Study Abroad course (min 3 months, max 12 months). Implementation of a defined study period will result in significant changes to EQI's operational processes and enrolment management across the system. EQI's Offers of a Place include the duration of the course (the study periods are not defined in this document as the important information is the duration of the offer, and the year levels offered to the student). The Statement of Fees that accompanies the offer has the overall amount of fees payable as well as the amount to be paid in order to accept the offer (part of the EQI-Student Agreement).</p> <p>In speaking with DEEWR it was intimated that the proposed study period definition was based on a typical University semester. Universities have defined semesters with concrete subjects that usually span a semester period. Other parts of the international education industry do not operate in such discrete time periods. Again, a "one</p>	<p>7. That the Study Period is not defined as a maximum of 24 weeks in length, but rather as</p> <p>a) the course offered to the student b) a school year/twelve month study period</p>

Proposed Amendments	Current Legislation	Implications	Recommendations
		<p>size fits all” arrangement has unintended consequences for other parts of the industry. The aim of the Baird Recommendations were to strengthen consumer protection arrangements, but the proposed amendment limits the ability of the industry to be flexible to the international education market and limits the ability of providers to operate in an effective and efficient manner.</p> <p>Section 22, Points 3, 4, and 5 are inconsistent under the current drafting and do not mirror the requirements for courses under 10 weeks in duration.</p> <p>Defining study periods only for the purpose of managing provider default and minimising refunds of fees is an onerous and complex requirement. The diversity of the sector complicates this proposed amendment.</p> <p>To implement the proposed amendments will require quite significant system changes and operational system design by providers.</p>	
Division 2 / Section 27 – Pre-paid fees (pages 90 – 92)			
Section 28 Obligations for registered provider to maintain designated account	Not defined in current ESOS Act	The proposed amendments (Section 31) include an exemption from this requirement for providers administered by a State Education authority.	
Limit of amount of pre-paid fees collected to 50% of fees for initial study period.	Not defined in current ESOS Act	<p>Background: EQI offers international students a range of programs including:</p> <ul style="list-style-type: none"> • Graduate programs - minimum one year to maximum 5 years in duration. Fees invoiced on an annual basis • Study Abroad programs - minimum study 3 months and maximum of 12 months duration. Fees invoiced in full for duration of study 	8. That there is no limit on pre-paid tuition fees for the school sector.

Proposed Amendments	Current Legislation	Implications	Recommendations
		<p>Once initial payment is received, a Confirmation of Enrolment is generated which links to a student visa application. Payment of fees constitutes formal agreement with the EQI International student contract.</p> <p>This proposed amendment will require multiple invoicing for each student in all CRICOS registered programs and application processing and debt management resources will need to be strengthened.</p> <p>Having a maximum duration study period of 24 weeks and limiting the receipt of pre-paid fees to 50% of fees for the initial study period means that students will only pay a quarter of the fees required on an annual basis in their initial study period.</p> <p>There will also be significant impacts on education agents. There will be an impact on payment of agent commission by EQI, as agents are only paid when the student has paid relevant tuition fees. There will need to be changes to agent contracts to manage the changes to payment of fees. Reputational risk to the industry will rise given that there may be a restriction of cash flow to international partners (education agents) which may impact on the industry. Australia may be viewed as less competitive than our competitors.</p> <p>Issues with packaged courses – eg HSP (intensive English) and mainstream and enrolment deposit for principal course of study. Under the proposal there is no allowance for packaged courses where places may need to be held at least 6 months in advance of study occurring.</p> <p>The intent to strengthen student consumer protection because of issues with non-compliant providers, means that low risk providers in the school sector are administratively burdened with unnecessary compliance requirements and the risk of attracting non-genuine</p>	

Proposed Amendments	Current Legislation	Implications	Recommendations
		students increases.	
<p>Limit on when pre-paid fees may be received once the course has begun. Provider must not receive tuition fees more than 2 weeks before the beginning of a study period for the course.</p>	<p>Not defined in current ESOS Act</p>	<p>Background: Currently EQI invoices on an annual basis for continuing students. In general EQI invoices for tuition fees and other fees such as homestay on the one invoice. Implementing a time line of when tuition fees may be receipted may lead to duplication of processes, confusion for consumers, and limits to consumer choice.</p> <p>There may be a high impact felt in markets where there are significant costs to transfer money to another country (eg China). There will be higher bank fees and transaction fees for each student and a higher administrative cost for providers to manage this system.</p> <p>The proposed changes only allow providers to receive subsequent tuition fees two weeks prior to the commencement of the next study period. This will limit debt management options prior to commencement of service delivery. Issues may arise including:</p> <ul style="list-style-type: none"> • When is the student considered to be in default? • What time line is appropriate prior to reporting a student for non-payment of fees? <p>In some cases students may wish to pay the entire cost or the annual cost for their studies. Legislating for amounts and timelines seems to be onerous. The ability of Compliance officers to monitor this requirement will also be quite difficult.</p> <p>Additional complications are that when students apply for a student visa, they must demonstrate that they have the required funds to meet the costs of their proposed course. Limiting their options in paying for their course limits consumer choice and may lead to a rise in non-genuine students.</p>	<p>9. That there is no limit on pre-paid tuition fees that may be received once the course has begun for the school sector.</p> <p>10. That there is no time limit on when pre-paid tuition fees may be received from continuing students.</p> <p>If the concern is to limit the amount of money to be refunded in the event of provider default, having a designated account that is used to dispense tuition fees may mitigate that risk. Again, strengthened regulatory requirements may also minimise this risk without the need for such prescriptive legislation.</p>

Proposed Amendments	Current Legislation	Implications	Recommendations
Schedule 1 Section 47 A, C, H– Student Default: (pages 12-13)			
Notification within 24 hours of Student Default	Time period is defined as 14 days notification using PRISMS in current ESOS Act	<p>The impact of legislated timeline notifications on all education providers is extremely high. Additionally it is proposed that the notification is to two entities – PRISMS and TPS.</p> <p>It is not practicable to notify DEEWR via PRISMS of student default within 24 hours. Natural justice should allow a sufficient period of time to elapse prior to reporting of student default. Often students are delayed in starting their course due to delays in issuing of student visas (this is particularly prevalent for students from AL4 countries eg China).</p> <p>The school sector has significant processes and procedures to monitor the welfare of international students. This is related to the welfare provisions for Under 18 students. Within EQI, international students are managed in accordance with the requirements for Under 18 students regardless of age.</p> <p>Attendance monitoring in EQI schools means that EQI may be informed of student absence within a 6 hour period of a student not attending class. This may be because of sickness. Schools investigate and if a student is away without approval, procedures are implemented to manage the situation. The highly regulated schools sector manages these aspects of student enrolment particularly well.</p> <p>The Knight Review recommended that DIAC manage compliance of serious compliance issues, not administrative notifications. This proposed amendment may place a significant burden of investigation on DIAC compliance officers as the risk of student default is higher under the proposed changes.</p>	11. Continue the current reporting requirements as articulated in the current ESOS Act and The National Code.

Proposed Amendments	Current Legislation	Implications	Recommendations
		<p>Currently PRISMS does not have the capability to manage the notifications that are proposed. Audit activities by the Regulators may meet the intention of this proposed amendment, whereby if providers are meeting the requirements of the current National Code standards, there should be adequate management of non-genuine students.</p>	
<p>Student Default for non-payment of fees Link to Pre-paid fees</p>	<p>Notification of non-payment of fees through PRISMS</p>	<p>Under the proposed changes in limiting the amount of pre-paid fees able to be receipted, student default for non-payment of fees will increase. Issues for the school sector are:</p> <ul style="list-style-type: none"> • Management of Under 18 yrs students. If a provider notifies through PRISMS that a student is to be cancelled welfare arrangements will still be in place for up to 2 months. If the student accesses the Complaints and Appeals policy, the provider may have to provide welfare arrangements during the period and allow the student to access studies during this time. • If provider notifies that it cannot hold welfare for student, the result will be that DIAC compliance officers will have an increase in workload and management of this type of cohort. The School sector may therefore increase in risk given the likelihood of students with bad debt and the subsequent cancellation of student visas for non-compliance. • In the case that a student finds another provider, the initial bad debt still remains. • Issues may arise in relation to timing of cancellation of student visas. <p>At present, a debt management policy is in place to manage bad debts. Annual invoicing for continuing students minimises the risk of bad debts and for EQI's</p>	<p>12. That there is no limit on pre-paid tuition fees that may be received once the course has begun for the school sector. (Please refer to Recommendation 9.)</p>

	Proposed Amendments	Current Legislation	Implications	Recommendations
			<p>Study Abroad program, current invoicing of full payment means that there is minimal bad debt for this program. Under the proposed amendments, debt management will have to be increased, and there will be an increase in the administration of the finances of the international student programs.</p>	

A division of the
 Queensland Department of Education and Training
 Education House
 30 Mary Street Brisbane
 PO Box 15050 City East, Brisbane
 Queensland 4002 Australia
Telephone + 61 7 3224 6958
Facsimile + 61 7 3224 6973
Email EQInternational@deta.qld.gov.au
Web <http://www.eqj.com.au/>
 CRICOS Provider Number: 00608A