



Australian Government
Department of Home Affairs

Department of Home Affairs submission on the Inquiry into the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024

Senate Education and Employment Legislation
Committee

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Table of Contents

Introduction	3
Background	3
Observations	4

Introduction

The Department of Home Affairs (the Department) welcomes the opportunity to provide a submission to the Senate Education and Employment Legislation Committee (the Committee) on the Inquiry into the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024 (the Bill).

The Senate referred the Bill to the Committee on 16 May 2024, for inquiry and report by 15 August 2024.

This submission provides insight into how the measures in the Bill will impact the Australian Government's ability to co-ordinate efforts across government to protect and enhance Australia's reputation for quality education and ensure growth is sustainable over time.

Background

The Department supports the sustainable growth of Australia's international education sector by facilitating the lawful entry and temporary stay of genuine international students. Student visa settings are designed to ensure that Australia's education sector remains internationally competitive while preserving high levels of immigration integrity.

The Department has evidence that recent growth in international education has in part been driven by non-genuine students and unscrupulous providers who are subverting the current regulatory framework. The Department remains supportive of genuine students studying in Australia and the steps outlined above aim to protect Australia's reputation as a provider of quality education in line with the Migration Strategy. These settings are focussed on strengthening integrity in the sector and while application growth has continued in 2023-24, the number of visas granted is 34 per cent lower than 2022-23.

Student visa applications have increased by 3.7 per cent in the 2023-2024 program year to 31 March 2024 compared to the same period in 2022-23. In March 2024, there were 671,359 student visa holders in Australia, which represents the third highest end of month figure. Further, February 2024 represented the highest end of month figure with 713,144 student visa holders in Australia.¹

The Department understands that present capacity within the international education system allows Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registered institutions to enrol and therefore seek visas for international students exceeding 1.4 million persons, not including student dependants. Dependants traditionally have formed approximately 10 per cent of visa holders.

The Department supports efforts to ensure that international student numbers are managed and enrolments can be allocated to sectors and regions so that the impact of this cohort on infrastructure can be supported. The Department notes that international students make up the largest single cohort of temporary migrants in Net Overseas Migration (NOM) forecasts and as such, planned arrivals will ensure that overall migration numbers can be regulated to support broader Government priorities.

Restoring the integrity of the migration system and maintaining public support for the presence of international students in the community requires whole of government action. The social license for migration will be supported through better planning of international student numbers that considers general infrastructure, public transport, housing and services such as health care. Known quality and integrity issues must be addressed through regulatory reform to the education sector while ensuring that fair and equitable access to Australia's education system is maintained. This Bill provides an appropriate response to the unprecedented growth of the international education sector and will protect and enhance Australia's reputation for quality education.

¹ Temporary visa holders in Australia - BP0019 Number of Temporary visa holders in Australia at 2024-03-31 - data.gov.au

A range of reforms are being implemented in the student visa program as part of the commitments made under the Government's Migration Strategy, released in December 2023. The Strategy was informed by the Rapid Review into the Exploitation of Australia's Visa System (the Nixon Review) and the Review of the Migration System (the Migration Review). Findings of the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Australia's Tourism and International Education Sectors were also considered. The key focus of the Migration Strategy is the quality and integrity of Australia's international education offering. Reforms, outlined below, address what the reviews established: that unscrupulous education providers and education agents were assisting non-genuine students to gain access to Australia's labour market using a student visa program.

On 1 October 2023, increased financial capacity requirements for Student visa applications came into effect based on the Consumer Price Index (CPI) figures (\$24,505 for an individual applicant). The updated numbers reflected CPI increases since 2019 up to and including June 2023. The purpose of the financial capacity requirement is to ensure that international students are able to afford to study in Australia, without relying on work, and to reduce vulnerability to exploitation or financial distress.

On 15 December 2023 Ministerial Direction 107 was signed prioritising visa processing according to provider level risk, as assessed by their evidence level (EL) under the Simplified Student Visa Framework (SSVF).

On 23 March 2024, three new integrity focused measures commenced:

- higher English language proficiency requirements for students and graduates;
- Ministerial Direction No. 106 Genuine Student (GS) requirement; and
- regulations in the *Migration Regulations 1994*, supporting Immigration Minister's powers under section 97 of the *Education Services for Overseas Students Act 2000 (ESOS Act)* to issue suspension certificates to high-risk education providers.

English language increases will support international students and recent graduates to have a positive educational experience in Australia and provide a greater opportunity to contribute to Australia's economic growth after graduation, as students with strong English proficiency are better placed to live independently in Australia and engage with the broader community.

Genuine Student requirement changes removed confusion about whether applicants can express a desire to migrate to Australia, requiring evidence of course progression, and helping the Department identify non-genuine students.

Section 97 of the ESOS Act provides for the Minister to issue suspension certificates to registered education providers if, in the Minister's opinion, a significant number of overseas students or intending overseas students are entering or remaining in Australia for purposes not contemplated by their visas. The new provisions support the Immigration Minister's existing powers under the ESOS Act to suspend education providers from recruiting international students for the period in which any suspension certificate is in force.

On 10 May 2024, a further increase to the financial capacity requirement was introduced. The increased financial requirement is now \$29,710 for an individual student.

The Department supports steps to ensure that the international education sector is better regulated and supports measures which will allow for planned and sustainable growth in the future. The Department notes that this Bill complements the Department's ongoing contribution to whole of government activities set up in response to the Nixon Review, including the Risk Working Group. The Risk Working Group allows the Department to collaborate with relevant government agencies and key stakeholders about how to address practices in the international education sector which undermine the integrity of Australia's student visa program. The Department believes that the Bill as proposed is necessary to ensure that the reputation of Australia's education system is enhanced and that the primary reason international students come to study in Australia is for the quality of the education system, not to work or achieve a migration outcome after their education is completed.

Observations

The Department supports the amendments to disclose activities which undermine the integrity and quality of Australia's international education system. Improving our regulatory framework is pivotal to creating a world class education sector which is focussed solely on ensuring that students come to Australia due to the quality of our education sector and their ability to enhance their career progression either in Australia or in the global jobs market.

The Bill takes a number of important steps to ensure that education agents and educational providers cannot undermine the integrity of the student visa system. The Department acknowledges that the changes proposed under the Bill will result in greater accountability surrounding the relationship between education agents and providers. These changes will help ameliorate known activities which see student enrolments facilitated for maximum profit, which is a known feature of the recruitment system. The Department notes that the Bill is intended to be supported by amendments to the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* to ban commissions from being paid by providers to education agents for onshore student transfers.

The Department supports steps taken in the Bill to regulate the commercial interactions of education providers and agents and to impose more stringent requirements on providers when registering new courses, complementing the work delivered by the Department as part of the Migration Strategy.

The Department supports consideration being given to linkages between commercially focused student recruitment practices and the potential impact for migrant exploitation, including where a prospective student is trafficked to Australia under the false pretences of a student visa. Addressing these concerns aligns with the Australian Government National Action Plan to Combat Modern Slavery 2020-25 and acknowledges that in 2022, 86 per cent of all international students reported using an education agent to source study in Australia. Education agent and provider malpractice are a significant driver of student visa non-compliance.

The Department notes that addressing migration fraud is reliant on other Commonwealth agencies whose legislative powers provide greater scope for disruption of efforts and as such welcomes the steps outlined in this Bill. In line with recommendation 13 of the Nixon Review, the Minister for Home Affairs continues to consider expanding the remit of the Office of the Migration Agents Registration Authority (OMARA) to include education agents as providers of migration advice.

The proposed amendments to limit enrolments and to sanction providers who exceed the limitations imposed, present a balanced response to the complex issue of managing international student growth. As proposed, the Bill ensures that due consideration will be given to the needs of education providers, the aspirations of international students and the ability of the wider Australian community to support continued growth in international student numbers. Importantly, it ensures that the needs of education providers and students will be considered in a way that would not be possible if attempts were made to limit student visa numbers under immigration law. The Department notes that successful implementation will also be dependent on the interagency sharing of data across core systems which is likely to require significant development for both the Department and the Department of Education. The Department notes that additional processing systems changes will be required to give full effect to these amendments.