



Australian Government

Australian Government response to the
Senate Education and Employment Legislation Committee
report:

*Education Services for Overseas Students Amendment
(Quality and Integrity) Bill 2024 [Provisions]*

May 2026

Overview

The international education sector is important to Australia, and the Australian Government remains committed to ensuring its quality and integrity.

The Senate Standing Committee on Education and Employment's final report on the inquiry into the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024 (ESOS Bill) made 8 recommendations.

The Australian Greens provided a dissenting report with 4 recommendations. Senator David Pocock provided additional comments with 18 recommendations.

Following the Senate Inquiry, the ESOS Bill lapsed on 28 March 2025 when Parliament was prorogued.

Government response

The Australian Government considered the recommendations contained in the Committee's report and on 9 October 2025, the Minister for Education, the Hon Jason Clare MP, introduced an amended omnibus Bill, the Education Legislation Amendment (Integrity and Other Measures) Bill 2025 (ELA Bill). The ELA Bill featured many of the same measures as the ESOS Bill. Recommendations contained in the Committee's report informed the drafting of the Bill, which was passed by Parliament on 28 November 2025. The *Education Legislation Amendment (Integrity and Other Measures) Act 2025* (ELA Act) received Royal Assent on 5 December 2025.

While it is not a requirement to respond to recommendations to pass, not pass, or amend a Bill, the Australian Government has responded to all recommendations.

Recommendations of the Committee

Recommendation 1

The committee recommends that the bill be passed.

The Australian Government **notes** this recommendation, further noting that the ESOS Bill lapsed on 28 March 2025.

Recommendations 2-6 (relating to Part 7 – Enrolment limits)

2. The committee recommends that the bill be amended to remove the ability for the Minister to set course-level limits for Table A and B universities and TAFE providers.

- 3. The committee recommends that the bill be amended to exempt specific classes of students, including by citizenship, from enrolment limits in instruments and notices.**
- 4. The committee recommends that the bill be amended to require the Minister to consult ESOS agencies and Immigration Minister before setting limits.**
- 5. The committee recommends that the bill be amended to require the Minister to consult providers before setting future limits. The Minister should only be required to consult with providers on the initial setting of enrolment limits each year, without the process being duplicated in the event there is a reallocation of student places throughout the year.**
- 6. The committee recommends that Part 7 of the bill be amended to change ‘notices’ to ‘notifiable instruments.’**
- 7. The deadline for instruments made under the Bill should be changed from 1 September of the year before the first year to which the instrument applies, to the 1 July of the year before the first year to which the instrument applies.**

The Australian Government **notes** these recommendations.

These recommendations have been acquitted on the basis that they are proposed amendments to the legislation.

Following the lapse of the ESOS Bill on 28 March 2025, the Hon Jason Clare MP, Minister for Education, introduced an amended omnibus Bill, the ELA Bill, which was passed by Parliament and received Royal Assent on 5 December 2025. Part 7 (Enrolment limits) of the ESOS Bill 2024 was not included in the ELA Bill.

Recommendation 8

The committee recommends that Ministerial Direction 107 be removed upon royal assent to the legislative amendments.

The Australian Government **notes** this recommendation.

As announced on the Department of Home Affairs website, Ministerial Direction 107 (MD107) was revoked on 18 December 2024. It was replaced with Ministerial Direction 111 (MD111), which commenced on 19 December 2024. Subsequently, MD111 was replaced by Ministerial Direction 115 (MD115) with effect from 14 November 2025.

Recommendations of the Australian Greens

Recommendation 1

That this Bill not be passed unless Part 7 and 8 of the Bill are removed.

The Australian Government **notes** this recommendation, further noting that the ESOS Bill 2024 lapsed on 28 March 2025.

The Hon Jason Clare MP, Minister for Education, introduced an amended omnibus Bill, the ELA Bill, which was passed by Parliament and received Royal Assent on 5 December 2025. Part 7 (Enrolment limits) of the ESOS Bill 2024 was not included in the ELA Bill.

Recommendation 2

That Ministerial Direction 107 be revoked immediately and not be contingent on the passage of the government's legislation to cap international student numbers.

The Australian Government **notes** this recommendation.

As outlined in the response to Committee Recommendation 8, Ministerial Direction 107 (MD107) was revoked on 18 December 2024 and replaced by subsequent Ministerial Directions.

Recommendation 3

That the government withdraw this Bill, go back to the drawing board and properly consult with the tertiary education sector to develop a plan which is sustainable rather than a rushed reckless migration policy.

The Australian Government **notes** this recommendation.

Following the lapse of the 2024 ESOS Bill on 28 March 2025, the Hon Jason Clare MP, Minister for Education, introduced an amended omnibus Bill, the ELA Bill, which was passed by Parliament and received Royal Assent on 5 December 2025.

Recommendation 4

That university funding be increased to fully and properly funded learning, teaching and research.

The Australian Government **notes** this recommendation.

Recommendation 40 of the Australian Universities Accord's Final Report proposed the introduction of a new funding system to be planned and managed by an Australian Tertiary Education Commission (ATEC).

The Universities Accord (Australian Tertiary Education Commission) Bill 2025 establishing the ATEC passed Parliament on 31 March 2026.

Recommendations of Senator David Pocock

Recommendations 1-12 and 14-15 (relating to Part 7 – Enrolment limits)

- 1. Delay commencement of Parts 7 & 8 of the Bill to 1 January 2026 to enable an orderly transition without further damaging Australia's international reputation and the longevity of our international education sector.**
- 2. Include 'sunset provisions' in relation to the Minister's powers so that they sunset at the sooner of two years, or when a relevant Mission Based Compact entered into.**
- 3. Amend the Bill to require the use of formulas and rules in the legislative instrument and remove the power to cap providers or vary legislative instruments independently of the Parliament. Establish legislated criteria for setting caps and require the Minister to provide and publish a statement of reasons for each cap.**
- 4. Insert a provision creating an independent process for providers to challenge and/or request a formal review of any cap they are given.**
- 5. Set a floor on the annual international student caps to give providers a minimum level of certainty to plan their budgets. The floor is proposed to be a cap that is not more than 15% lower than the previous year's cap or the average of the previous three calendar years, whichever is higher.**
- 6. Amend the breach provisions, so that they are more proportionate, and so that suspensions are not automatically triggered for minor breaches. Include a range in the international student cap allocations to each institution to provide flexibility and minimise unintentional breaches of the cap. Include at least one warning of potential breaches prior to penalties being enforced.**
- 7. Insert a provision that annual international student cap limits must be provided no later than 1 July of the preceding year and be publicly notified.**
- 8. Require the formula for setting caps to take into account the provision of existing student accommodation, including any arrangements through third party providers.**

- 9. Remove the Minister's power to set caps at a course level.**
- 10. Provide clarity to providers around the priority categories of students to be excluded from the caps including postgraduate research students, exchange/study abroad/mobility students, and students in transnational education (TNE) programs.**
- 11. Require the Minister to consult with a registered provider before determining a limit for that provider.**
- 12. Insert a new provision requiring the government to maintain a public register of all notifications provided. Notifications to providers should be directed to be immediately included in the register.**
- 14. Better define enrolment for the purposes of setting annual international student caps.**
- 15. In consultation with stakeholders, develop and legislate a workable system for reallocating unused places.**

The Australian Government **notes** these recommendations.

These recommendations have been acquitted on the basis that they are proposed amendments to the legislation.

Following the lapse of the ESOS Bill on 28 March 2025, the Hon Jason Clare MP, Minister for Education, introduced an amended omnibus Bill, the ELA Bill, which was passed by Parliament and received Royal Assent on 5 December 2025. Part 7 (Enrolment limits) of the ESOS Bill 2024 was not included in the ELA Bill.

Recommendation 13

Amend the definition of education agent to make it clear that an agent is an entity that engages in the specified activities in relation to a provider in exchange for a commission, and that is listed in the PRISMS system.

The Australian Government **notes** this recommendation.

This recommendation has been acquitted on the basis that it is a proposed amendment to the legislation. The proposed definition of 'education agent' in the ESOS Bill was carried forward as a measure in the ELA Bill, which was passed by Parliament and received Royal Assent on 5 December 2025.

The new definition supports transparency of provider-education agent relationships and integrity in the international education sector by giving a clearer and more comprehensive definition of 'education agent'.

Basing the definition of education agent on the activities performed in relation to a provider more accurately reflects the interactions, including financial, between providers and education agents.

Recommendation 16

Narrow the reasons why the Minister can suspend or cancel a course to those with systemic integrity issues.

The Australian Government **notes** this recommendation.

This recommendation has been acquitted on the basis that it is a proposed amendment to the legislation. The measure to give the Minister the power to suspend and cancel courses, as per Part 8 of the ESOS Bill, was carried forward in the ELA Bill. This measure will help remove courses where there is a demonstrated poor or low quality of delivery or where the courses are being used to subvert student visa conditions.

Recommendation 17

Ensure the legislation allows new independent higher education providers to enter the market with appropriate quality and integrity safeguards.

The Australian Government **notes** this recommendation.

This recommendation has been acquitted on the basis that it is a proposed amendment to the legislation.

Following the lapse of the ESOS Bill on 28 March 2025, the Hon Jason Clare MP, Minister for Education, introduced an amended omnibus Bill, the ELA Bill, which was passed by Parliament and received Royal Assent on 5 December 2025. The ELA Bill includes a range of measures to strengthen the quality, integrity and sustainability of the delivery of education in Australia.

Recommendation 18

The government should develop a national plan for population and immigration that sets specific targets through consultation with Australians and consideration of impacts on housing accessibility and affordability, infrastructure, the environment and water, and our priority work skills needed.

The Australian Government **notes** this recommendation.

On 11 December 2023, the Australian Government released its Migration Strategy. The Migration Strategy was informed by extensive consultation with business, unions and other stakeholders, and more than 450 submissions received as part of the 2023 Review of the Migration System.