



Australian Government
Department of Education

Administrative Review Tribunal and Other Legislation Amendment Bill 2025

Submission from the Department of Education to
the Senate Standing Committees on Legal and

● Constitutional Affairs



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Administrative Review Tribunal and Other Legislation Amendment Bill 2025

Introduction

The Australian Government Department of Education (Education) welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs Legislation Committee *Inquiry into the Administrative Review Tribunal and Other Legislation Amendment Bill 2025* (the Bill).

Education plays a key role in supporting the quality, integrity and long-term sustainability of the international education sector. A core part of this commitment is ensuring that Australia's migration and international education regulatory frameworks work coherently to maintain the integrity of the student visa program and protect the reputation of Australia's international education system.

The Bill proposes amendments to the *Administrative Review Tribunal Act 2024* (the ART Act) and the *Migration Act 1958* (the Migration Act) to expand the circumstances in which the Administrative Review Tribunal (ART) may determine matters without an oral hearing. This includes defining an application made to the ART in relation to a decision to refuse to grant a student visa as an 'application to be reviewed on the papers'.

Given the significant volume of student visa matters reviewed by the ART and the interconnected responsibilities of Education and the Department of Home Affairs (Home Affairs) under the *Education Services for Overseas Students Act 2000* (the ESOS Act), the proposed amendments have implications for Education, international students and education providers. The key purpose of these proposed amendments to improve the timeliness of decisions is strongly supported by Education as it will improve integrity in the migration system and benefit genuine students and their education providers.

Background

The ESOS Framework

The ESOS Act and subsidiary legislation (the ESOS Framework) regulate the provision of education services to overseas students, protect and enhance Australia's reputation for quality education, provide tuition protection and support the integrity of the student visa program.

It is an offence under the ESOS Act for a person to provide or promote a course to overseas students if that course will not be delivered, at least in part, by a provider that is registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). CRICOS registered providers must meet the registration requirements set out by the ESOS Act and comply with obligations under ESOS Act, the National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code) and other associated

legislative instruments. Non-compliance can lead to consequences for these providers, including fines, suspension or cancellation of registration, and reputational damage.

The ESOS Framework supports the integrity of the student visa program by requiring education providers to collect and report information relevant to international students who hold a student visa. It also provides the Minister who administers the Migration Act (the Immigration Minister) with the power under section 97 of the ESOS Act to issue suspension certificates to providers where a significant number of overseas students are entering or remaining in Australia for purposes not contemplated by their visas.

Impact of appeals on international education activity

The current number of applications awaiting review with the ART relating to a student visa decision is significant in relation to the overall level of international education activity.

Education's International Student Data shows that there were 839,199 international student enrolments in year-to-date (YTD) June 2025. In the same period, there were 262,282 international student commencements.¹

This level of activity is consistent with Home Affairs data on student visa applications. The most recent published data from Home Affairs indicates that during the 2024-25 financial year, 368,425 primary student visa applications and 58,706 secondary visa applications were lodged. 38 per cent of the applications by primary visa applicants and 53 per cent of secondary applicants were made onshore, a sizeable proportion of primary and secondary visa lodgements. Based on Home Affairs visa grant rate data released via Data.gov.au, Education estimates that in 2024-25 approximately 38,200 primary student visa applicants, who made their application onshore, had their applications refused or withdrew their applications. This represents a significant pipeline of potential applications for review at the ART that is reflected in ART statistics.²

As at 31 July 2025, the ART had 39,195 active applications relating to study visa refusals, which also include student guardian visa refusals. This contrasts with 1,080 applications relating to study visa cancellations that were active at 31 July 2025.³ With international student enrolments totalling 839,199 as at YTD June 2025⁴, Education estimates that up to 4.7 per cent of this cohort may have involved students studying while awaiting the finalisation of a study visa cancellation or refusal application. Students in Australia seeking a review of their student visa refusal decision are entitled to stay onshore on a bridging visa for the duration of the merits review, which may allow them to continue to study and work.

¹ Department of Education (Education), 'International student monthly summary and data tables', <https://www.education.gov.au/international-education-data-and-research/international-student-monthly-summary-and-data-tables>.

² Australian Government, 'Student visa program', <https://data.gov.au/data/dataset/student-visas>.

³ Administrative Review Tribunal (ART), 'Migration Jurisdictional Area caseload summary for the period 1 July 2025 to 31 July 2025', <https://www.art.gov.au/sites/default/files/2025-09/Migration-Detailed-Caseload-Statistics-2025-26.pdf>.

⁴ Education, 'International student monthly summary and data tables', <https://www.education.gov.au/international-education-data-and-research/international-student-monthly-summary-and-data-tables>.

According to data on processing times for reviews finalised in the last 6 months of operations of the Administrative Appeals Tribunal (AAT) (14 April 2024 to 13 October 2024), 95 per cent of applications related to student refusals were finalised within 761 calendar days. This suggests that an applicant appealing a student refusal decision may have waited up to approximately 2 years for their application to be finalised by the AAT.⁵

The ART's recent Caseload Report indicates that, for study visa applications finalised between 1 July 2025 and 31 July 2025, the median time to finalise these applications was 62 weeks.⁶ According to the ART's Migration Jurisdictional Area Caseload Summary covering the same period, approximately 96 per cent (or 682) of the 713 finalised study visa applications were related to study visa refusals.⁷

More timely resolution for students and providers

The proposed amendments to the ART and Migration Acts will allow the ART to make decisions on the papers regarding review applications for all student visa refusals.

Education considers that these amendments are appropriate due to the nature of student visa refusals under review including from non-genuine students seeking to manipulate the student visa and broader migration systems, the low volume and complexity of written materials relevant to the review process and the temporary nature of student visas. Paper-based decision-making will enable a more timely and proportionate method of review that will also ensure that genuine applicants are provided a meaningful opportunity to present their case to the ART.

A more streamlined process will also deter non-genuine students from misusing ART processes to defer their departure from Australia, further freeing up resources for the resolution of meritorious applications for review.

Genuine students will also benefit from timely review procedures that reduce delays in decision-making. Where this results in a positive outcome, genuine students will be able to commence studying as intended and confirm their arrangements to remain in Australia in a timely manner and give CRICOS-registered providers certainty in planning course delivery.

Strengthened integrity of the International Education System

The proposed changes will also support Education's efforts, working with ESOS regulators, Home Affairs and other agencies, to strengthen the integrity of the international education system. The release of the *Rapid Review into the Exploitation of Australia's Visa System* (Nixon Review) and the *Review of the Migration System* (Migration Review) highlighted

⁵ ART, 'Processing times for the former AAT's Migration and Refugee Division', <https://www.art.gov.au/about-us/accountability-and-reporting/former-administrative-appeals-tribunal/processing-times-former-aats-migration-and-refugee-division>.

⁶ ART, 'ART Caseload Report for the period 1 July 2025 to 31 July 2025', <https://www.art.gov.au/sites/default/files/2025-09/ART-Caseload-2025-26.pdf>.

⁷ ART, 'Migration Jurisdictional Area Caseload Summary for the period 1 July 2025 to 31 July 2025', <https://www.art.gov.au/sites/default/files/2025-09/Migration-Detailed-Caseload-Statistics-2025-26.pdf>.

serious integrity risks in Australia's visa and international education systems. These reviews identified misuse of the student visa program by non-genuine applicants, weakness in provider oversight, and systemic vulnerabilities in visa processing and review pathways.

The interim report of the Joint Standing Committee on Foreign Affairs, Defence and Trade's Inquiry into Australia's tourism and international education sectors also highlighted the need to strengthen integrity and sustainability in international education.

The Government's Migration Strategy set out reforms to address these concerns, including:

- replacing the Genuine Temporary Entrant requirement with a Genuine Student test
- restricting onshore visa hopping that undermines system integrity and drives 'permanent temporariness'
- stronger regulatory action against CRICOS-registered providers with high student visa refusal rates or a history of non-compliance.

Non-genuine students, looking to deliberately circumvent the international education and visa systems for purposes other than study, such as work, may misuse the student visa and ART process to prolong their stay in Australia. Such behaviour causes further delays for those seeking reviews of student visa refusal decisions, including genuine applicants.

While individuals on bridging visas waiting for a finalisation of an ART review may be permitted to work and study, there is a risk that non-genuine international education providers may exploit this cohort by directing them into inappropriate or exploitative work arrangements. ART data noted above indicates an approximate processing period of up to 2 years that provides an incentive for non-genuine students to manipulate the review process in order to continue to work in Australia and defer their departure. This feeds into the 'permanent temporariness' identified in the Migration Review.

Home Affairs has implemented changes to student visa requirements that reduce the ability for non-genuine students to undermine the migration system, including restricting visa hopping, where individuals enrol in successive courses to extend their stay in Australia. Since 1 July 2024 temporary graduate and visitor visa holders have not been able to apply for a student visa while in Australia. There remains a large number of applicants whose student visas were refused before these changes were introduced who have current matters before the ART.

The Government has also indicated its intention to progress amendments to the ESOS Act to deliver a range of integrity measures. These amendments are expected to support the integrity of providers of international education and complement changes already made to enhance the integrity of the student visa program, addressing both non-genuine providers and non-genuine students.

The proposed amendments to the ART and Migration Acts will further complement changes across the international education sector by providing a more timely merits review process and reducing the incentive to lodge a non-genuine student visa application to delay departure.

More timely review procedures will also improve Education's visibility of student and provider activity. This will enable greater insights into emerging integrity issues, for example, by strengthening Education's ability to effectively monitor and detect risk factors or patterns of concern linked to specific CRICOS registered providers. This is critical to identifying and responding to exploitation, protecting genuine international students and maintaining the integrity of the migration system.

Safeguards for overseas students

Education has a strong interest in the wellbeing of international students and that these proposed changes do not disadvantage genuine international students.

The Bill amends the *Migration Act 1958* to require the ART to determine student visa refusals on the papers without an oral hearing.

Applicants will retain the right to provide a written submission to the ART, access to relevant materials held by Home Affairs, procedural fairness and mandatory consideration of all written material.

Education is satisfied that the changes are proportionate and fair and that there are sufficient safeguards built in to ensure access to a strong merits review process.

Considerations for Implementation

In reviewing the Bill, Education recommends that the Senate Committee, the ART and Home Affairs consider the following for implementation of the measures, subject to passage of the Bill, to effectively manage the impacts on international students:

- **Transparency and confidence:** It is important to have clear communication on ART procedures for paper-based decision-making to maintain international student and provider confidence in the system. For international students navigating these changes, this will be a significant administrative shift. It will require clear communication on the requirements and expectations, such as the importance of preparing strong written submissions and ensuring all supporting documents are complete and accurate. As the changes will also apply retroactively to applications on hand, this will need to be clearly communicated to individuals awaiting an ART outcome.
- **Timeliness and certainty:** While paper-based decisions is expected to increase efficiency, applications for review of student visa decisions represent a large proportion of the on-hand ART caseload. Delays in review outcomes can delay students' study commencement and impact CRICOS registered provider operations. The uncertainty associated with delays in the merit review process is also a risk for international student wellbeing and should be reduced as much as possible while maintaining the fairness of proceedings. The ART should continue to be open about the expected timelines for decisions to help to manage uncertainty for genuine students.

Home Affairs and Education will continue to work collaboratively, and with the wider international education sector, to support smooth implementation and manage the potential impacts on international students.

Conclusion

Education is supportive of the proposed amendments to the ART and Migration Acts. These amendments will improve timeliness of decision-making processes and reduce the risk of exploitation through individuals using the system to delay their departure from Australia.

An inefficient system only benefits non-genuine students and non-genuine providers. Providing the ART with the power to review student visa refusal decisions on the papers will improve efficiency and have benefits for genuine students, international education providers, and the migration system.

Improved processing times will help to deter non-genuine applicants seeking to unduly prolong their stay in Australia. The proposed changes will mean genuine applicants receive quicker decisions. Where a case is remitted back to Home Affairs for reconsideration and the grant of a student visa, this will enable the applicant to commence study with their chosen registered provider without unnecessary delay or disruption.

More timely decision-making will also give greater certainty to registered providers by reducing undue delays for genuine students commencing study. It will also protect genuine international education providers from exploitation by non-genuine students to achieve migration outcomes, including to extend their ability to work and delay their departure from Australia.

More timely resolution of review applications will allow Education, in collaboration with Home Affairs and ESOS regulators, to obtain a more accurate and current assessment of providers' student visa outcomes as part of overall integrity monitoring. Education supports the proposed amendments.