Australian Government
Department of Education

Education Legislation Amendment (Integrity and Other Measures) Bill 2025

Submission to the Senate Standing Committee on Education and Employment

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Introduction

The Department of Education (the department) welcomes the opportunity to make a submission to the Education and Employment Legislation Committee's Inquiry into the Education Legislation Amendment (Integrity and Other Measures) Bill 2025 (the Bill).

The Australian Government is committed to strengthening the quality, integrity and sustainability of the delivery of education in Australia, and improve equity and access in higher education, particularly for First Nations peoples. The Australian Government is also committed to promoting transparency and integrity in the early childhood education and care (ECEC) sector.

The Bill amends the following Education portfolio Acts:

- the *Education Services for Overseas Students Act 2000* (ESOS Act);
- the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act);
- the *Higher Education Support Act 2003* (HESA); and
- the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act).

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) brought urgent attention to integrity issues in international education. Further, the 2023 interim report of the Joint Standing Committee on Foreign Affairs, Defence and Trade, entitled *Quality and integrity – the quest for sustainable growth: Interim report into international education* (Interim Report) demonstrated quality and integrity issues in international education.

Amendments to the *Education Services for Overseas Students Act 2000* (the ESOS Act) directly respond to issues identified in the Nixon and Migration Reviews, and are also informed by the Interim Report and feedback received from the sector on measures introduced in last year's *Education Services for Overseas Students (Quality and Integrity) Bill 2024* (2024 ESOS Bill).

Offshore delivery by Australian providers is increasing, and expansion into new markets with new delivery models brings increased complexity and risk. Current reporting of offshore delivery arrangements by providers is not consistent across the sector, and government does not have the necessary information to ensure these programs uphold the world-class standard of education Australia is known for. Amendments to the *Tertiary Education Quality and Standards Agency Act 2011* (the TEQSA Act) will assure that all Australian qualifications continue to reflect our high standards, regardless of the delivery location or model.

The *Australian Universities Accord Final Report* recommended that the Australian Government provide places for all First Nations students who apply and meet entry requirements for a medical degree (recommendation 3(b)).

The Bill's amendment to the *Higher Education Support Act 2003* (HESA) responds to this recommendation by uncapping places in medical courses for First Nations students so that all First Nations students who meet the entry requirements to enrol in courses in medicine can be enrolled in a Commonwealth supported place. The measure will expand educational opportunities by

allowing higher education providers to enrol more First Nations medical students and help to address the underrepresentation of First Nations people in Australia's health workforce.

The Bill improves transparency and integrity in the ECEC sector by making amendments to the Family Assistance Administration Act. The amendments will support the collection of robust data for the Early Education Service Delivery Prices project, enabling a data-driven understanding of the reasonable costs associated with delivering safe and high-quality early childhood education and care. The amendments will strengthen the integrity of existing ECEC data governance arrangements to ensure continuity in data reporting and enhance transparency. The amendments will also align the date of effect for decisions relating to the Child Care Subsidy (CCS) reconciliation process under the Family Assistance Administration Act with the operational settings of the CCS system and implement minor technical amendments to improve legislative clarity and consistency.

Legislative context

The ESOS Act regulates education services for overseas students and provides access to the Australian education system. The ESOS agencies responsible for regulating providers under the ESOS Act are the Australian Skills Quality Authority (ASQA), the Tertiary Education Quality and Standards Agency (TEQSA), and for the school sector the Secretary of the Department of Education (the Secretary).

The TEQSA Act established TEQSA as an agency and regulates and assures the quality of Australian higher education.

HESA is the main piece of legislation governing higher education funding in Australia. It is under HESA that the Government supports universities and other higher education providers to deliver Commonwealth supported places in higher education courses.

Alongside the *A New Tax System (Family Assistance) Act 1999,* which sets out eligibility and entitlement rules for the CCS, the Family Assistance Administration Act establishes the administrative framework for family assistance payments including the CCS.

International education integrity measures

The Bill amends the ESOS Act and the TEQSA Act to support the quality and integrity of the international education sector. The provisions within the Bill are examined below.

Part 1 - Education agents and commissions

Part 1 of Schedule 1 of the Bill introduces a new requirement for ESOS agencies to consider when determining whether a provider is fit and proper to be registered under the ESOS Act. The changes proposed under the Bill amend section 7A of the ESOS Act to expand the fit and proper considerations and require ESOS agencies to take into consideration any ownership or control between providers and education agents, and the extent of that ownership.

The measure is not intended to prevent cross-ownership that is transparent, well-governed and documented, but to prevent collusion.

This measure further updates the definition of an education agent and introduces a definition of education agent commission. These definitions will support amendments requiring providers to give to the Secretary information about education agent commissions made to an education agent in connection with the recruitment of accepted students of the provider, when requested.

These amendments are designed to engender transparency of relationships between providers and education agents, with the intent of limiting opportunities for collusive behaviour and improving the standard of conduct required by providers to gain and hold registration under the ESOS Act.

The amendments take into account feedback from international education sector stakeholders concerning the administrative burden of reporting education agent commissions. Stakeholders suggested reporting commissions over a specific period. By allowing for periodic reporting of commissions information, compliance with the new requirement does not create an unnecessary administrative burden on providers.

The Nixon Review identified that some education providers formed business relationships and worked with education agents to facilitate student movements for the purposes of profit only, rather than the genuine education needs of the student.

Providers who wish to be registered under the ESOS Act must satisfy their ESOS agency that they are fit and proper to be registered, unless they are an exempt provider. Registered providers must continue to satisfy the fit and proper test to maintain their registration.

Registered providers are required to notify their ESOS agency if they begin to have ownership or control of an education agent, where there is a change in that ownership or control. Notification is also required if the provider begins to be owned or controlled by an education agent or if there is a change in ownership or control. Notification must be within 10 business days.

Cross-ownership is not an individual ground for an ESOS agency to refuse to register a provider and an ESOS agency will consider the existence of any cross-ownership arrangements when making their overall determination of whether a provider is fit and proper to be registered.

Education agents

The Nixon Review brought urgent attention to unscrupulous activity in relation to student recruitment and established the imperative for legislated change to curtail behaviours such as poaching.

Accordingly, the new definition of ‘education agent’ is an activity-based approach, which no longer relies upon a formal relationship between an agent and a provider. This reflects a sharpened focus on problematic agent activity and behaviour, whether it occurs in the context of a formal arrangement with a provider or not. This definition will capture a range of activities and agents that the sector has brought to the attention of government including where providers use students to recruit other students. This definition will minimise the risk of loopholes that could be exploited by unscrupulous providers and agents.

The creation of a definition of ‘education agent commission’ is necessary to support new powers for the Secretary to request providers to give education agent commission information and to strengthen the ability of an ESOS agency, or the Secretary, to share this information with registered providers.

The department took into account feedback from sector representatives when drafting the definition of 'education agent commission' and their concerns that unscrupulous providers will seek to hide commission payments as other types of payments or incentives. The provision has been drafted to cover all forms of agent remuneration, including non-monetary incentives, to prevent some providers and agents changing their practices to avoid new reporting obligations and the intended ban on payment of commissions for onshore transfers. Greater transparency around education agent commissions will support stronger integrity in the sector.

This definition will be relied on for a future amendment to the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code) to implement a ban on payment of commissions for onshore transfers.

The Department has listened to concerns from the sector that the new definition of 'education agent' is too broad and understands this feedback. Due to the seriousness of integrity issues raised in the Nixon Review and other reviews and inquiries, and the importance of discouraging business models which facilitate poaching and poor advice to students, this definition provides the best approach to disrupt these unscrupulous behaviours. Policy guidance will be provided to the sector to ensure that all providers and agents are clear on what does and does not constitute an 'education agent' under this new definition.

The Department is continuing to work with sector representatives and experienced practitioners to assist with the implementation of these integrity measures.

Part 2 - Giving information to registered providers

Part 2 of Schedule 1 of the Bill expands the ability of the Secretary, or an ESOS agency, to give information about education agents to registered providers for the purposes of protecting and enhancing Australia's reputation for quality education and training services for accepted students.

The amendment will enhance transparency of education agent practices and behaviours and assist providers to make better decisions about which agents to engage with. Information that a provider may consider when engaging education agents may include selecting those who have a lower rate of course transfers or not using agents who have a pattern of high visa refusals or who charge excessively high commissions. This measure will help to correct the current imbalance between providers and agents, the secretive nature of payment of commissions and encourage fairer business practices.

Evidence received by the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry indicated the current international education market is hyper competitive around student recruitment, which places providers at a disadvantage in managing agents. The Interim Report highlighted that this environment fostered the payment of large commissions to agents.
The Committee considered the case for mandating transparency in agent commissions to be overwhelming.

The provisions under Part 2 of Schedule 1 do not allow the Secretary or ESOS agencies to publish this information to the general public, rather they enable the provision of information to registered providers in a controlled, access restricted platform.

Any personal or sensitive information collected will be used only for the legitimate purpose of helping providers to choose reputable education agents. The Department of Education, TEQSA and ASQA will adhere to the requirements set out in the Privacy Act and the Australian Privacy Principles when collecting, handling, using or disclosing any personal or sensitive information.

Part 3 - Management of provider applications

Part 3 of Schedule 1 of the Bill enables the Minister for Education (the Minister) to, by legislative instrument, suspend the making or processing of initial applications for the registration of providers and applications for the registration of new courses by registered providers for a specified period. The period specified must not be more than 12 months.

This measure allows ESOS agencies to properly consider all applications and divert resources to addressing emerging integrity issues. It also allows for improved management of sector growth and provides flexibility to address concerns in specific cohorts of high-risk providers or courses.

This amendment addresses Recommendation 14 in the Interim Report of the Joint Standing Committee to pause the processing of new provider applications for registration and the addition of new courses by existing providers.

The Minister must personally exercise their powers under the new provisions included in this Part. The Minister requires the prior written agreement of the Minister for Skills and Training (or the Minister responsible for administering the *National Vocational Education and Training Regulator Act 2011* (NVETR Act)) before making an instrument under these new provisions. The Minister must also consult with ESOS agencies but does not require their agreement before making the instrument.

This measure introduces a definition of 'processing activity'. The definition of processing activity clarifies that where a determination is made that an ESOS agency must not undertake any processing activity, an ESOS agency will not accept new provider applications and will not perform any work to progress existing provider applications that have not been approved before the determination commences.

Where a determination is made that an ESOS agency is not required to undertake any processing activity, the ESOS agency would have discretion to decide whether to continue progressing existing applications. The Minister is able to direct ESOS agencies to suspend the processing of all applications or one or more specific classes of applications, which for example, may include classes of applications for specific VET or Higher Education courses.

The Minister may also make a determination via legislative instrument to suspend the making of applications. This means that no applications for CRICOS registration can be made while the instrument is in force. This may apply to either new applications for provider registration (under section 9 of the ESOS Act), applications to add courses to an existing registration (under section 10H of the ESOS Act), or both, depending on the determination.

It is intended that the Minister will only exercise this power in limited circumstances, where the Minister has concerns relating to the integrity or sustainability of the international education sector. This will help protect overseas students by ensuring that, where there are significant concerns associated with all, or a specified class of, registration applications, the Minister can direct the ESOS agencies to pause the processing of these applications, while allowing processing of other

applications to continue as appropriate, or the Minister can determine that applications may not be made, in order to undertake further investigation.

A legislative instrument made under this Part of the Bill is not subject to disallowance. Subjecting the legislative instruments to the disallowance process may result in further uncertainty in this period of change for the international education sector, in respect of affording providers with commercial and business certainty once an instrument has been made. The matters covered by an instrument are intended to be under Executive control, given the primary purpose of the instrument will go to the functioning and operations of ESOS agencies and their role in regulating providers where integrity risks are present.

If the Minister fails to consult as required before making a legislative instrument under this Part of the Bill, it does not affect the validity of the instrument. While it is the intention that the Minister would consult with the relevant ESOS agency ahead of making an instrument under these sections, this amendment ensures that any instrument made can be relied upon in all circumstances, to provide commercial business certainty to providers in the event the technical requirements of consultation are not met. The provision is consistent with section 19 of the Legislation Act, which provides that the validity or enforceability of a legislative instrument is not affected if consultation does not occur.

The legislative instruments under this Part of the Bill can apply to applications for registration (for new providers or the addition of courses by existing providers) made before, on or after the commencement of the Bill. This is necessary to avoid the risk of a situation arising where non-genuine providers seek to circumvent increased regulatory scrutiny ahead of changes being introduced, for example, by quickly submitting an application prior to commencement. It ensures that all providers are subject to the same considerations regardless of the time of their application.

Part 4 - Registration requirements

Part 4 of Schedule 1 of the Bill changes the registration requirements for education providers. Education providers seeking registration will be required to demonstrate their ability to deliver effectively first to domestic students by providing one or more courses for consecutive study periods totalling at least 2 years in Australia to students other than overseas students.

This amendment is aimed at ensuring high quality education delivery by education providers, deterring non-genuine providers from entering the international education sector purely for facilitating migration outcomes or trafficking people into bonded labour rather than providing a quality education outcome. It further addresses a recommendation in the Interim Report of the Joint Standing Committee to require operation and delivery to domestic students prior to registering as an education provider under the ESOS Act.

To give effect to the policy objective, this measure also introduces a definition of ‘study period’. A study period is defined as a period of study within a course that meets the requirements (if any) set out in the National Code, such as a term or semester. Breaks that ordinarily occur, during or between one or more study periods count towards the total of 2 years.

Providers that deliver only standalone English Language Intensive Courses for Overseas Students (ELICOS) or standalone Foundation programs, or both, are exempt from the new registration requirements as such provider’ primary market is to overseas students. Providers listed in Table A of

the *Higher Education Support Act 2003* (Table A providers) are also exempt from these requirements as these providers have demonstrated a commitment to delivering quality education services through meeting the eligibility criteria under the TEQSA Act to be able to self-accredit courses. This also ensures that, in the event of mergers or corporate restructures by Table A providers that result in the creation of a 'new' provider that has demonstrated commitment to delivery of quality courses, the new provider is not penalised or subject to this provision.

This provision does not apply to existing registered providers or providers seeking to renew their registration. However, should a provider's registration be cancelled or end without being renewed, the provider will be subject to the requirement should they seek to re-enter the sector and apply for registration.

Part 5 - Automatic cancellation of registration

Part 5 of Schedule 1 of the Bill introduces a new provision specifying that a provider's registration is automatically cancelled if they have not provided any course at any location to any overseas students in a period of 12 consecutive months beginning on or after 1 January 2024 (the measurement period).

This amendment addresses integrity risks posed by dormant providers who may be using their registration for non-genuine purposes and providers who are not demonstrating a genuine commitment to course delivery. This measures also addresses the problem of 'phoenixing' in the international sector, where unethical providers re-emerge under new business identities to evade regulatory scrutiny. It further addresses a recommendation in the Joint Committee's Interim Report to cancel a provider's registration if they have not delivered training within a 12-month period.

Approved school providers are exempt from this amendment as intakes of overseas students at such providers are generally small and they may not enrol an overseas student every year.

The Bill uses the term 'cancelled' in reference to a provider's registration as this terminology is consistent with existing provisions in the ESOS Act (for example, section 92 of the ESOS Act). The term 'lapse' is used for a similar provision in the NVETR Act because the VET registration scheme operates differently to the ESOS Act, but in application, these terms have the same meaning and result in the same outcome (i.e. a provider no longer being registered).

As the cancellation of a provider's registration under this provision would occur by force of law, it is not subject to merits or judicial review.

The amendment includes provisions enabling a provider to seek an extension of the measurement period from their ESOS agency. The application for an extension must be made at least 90 days before the measurement period would otherwise end. Legitimate circumstances for an extension may include where:

- a newly registered provider is facing operational challenges preventing successful delivery of courses to overseas students (for example, lack of staff or funding), and
- where a provider may be affected by a natural disaster or circumstances that are beyond their control impacting on the delivery of a course (for example fire, flooding or a pandemic event).

A provider is able to request an extension to each measurement period. An ESOS agency can extend a measurement period more than once but not for a total period exceeding 12 months. The decision to not extend a measurement period is an exercise of administrative power by an ESOS agency and is subject to merits and judicial review.

The first measurement period will start on 1 January 2026, so any education provider that does not deliver courses for a period of 12 consecutive months from that date will be affected.

The first possible cancellations would therefore take place from 1 January 2027, giving genuine providers until the end of 2026 to recommence delivery without being subject to cancellation. The ESOS agencies will contact those providers affected and provide them with an opportunity to seek an extension to the 12-month period as provided for in the Bill.

Part 6 - Investigation of offences

Part 6 of Schedule 1 of the Bill introduces a new requirement for ESOS agencies to consider when determining whether a provider is fit and proper to be registered under the ESOS Act. The changes proposed under the Bill amend section 7A of the ESOS Act to expand the fit and proper considerations and require ESOS agencies to take into consideration whether a provider or related person of the provider is being investigated for a specified offence.

The specified offences include offences under the ESOS Act, offences under Division 270 and 271 of the *Criminal Code* (relating to human trafficking and slavery), an offence under section 590 of the *Corporations Act 2001* and an offence specified in a legislative instrument made by the Minister.

These are serious offences, and providers who are being investigated for these offences are placing students at risk of serious exploitation if left unaddressed. Suspending providers who are no longer fit and proper because an ESOS agency is required to consider if they are under investigation for a serious offence ensures that vulnerable students are protected, and further exploitation is limited while investigations are underway.

This amendment further addresses a recommendation in the Interim Report to automatically suspend a provider's recruitment of overseas students if the provider is under serious regulatory investigation.

This amendment to the fit and proper provider test is included in section 7A of the ESOS Act to ensure that a strong message is sent to providers about the serious consequences that may affect their registration if they are under investigation for a specified offence. Section 89 of the ESOS Act provides that if an ESOS agency is no longer satisfied that a registered provider is fit and proper, their registration is automatically suspended. As the suspension is automatic, the ESOS agency does not need to give the provider procedural fairness in relation to the suspension and the provider is not able to seek review of the suspension. This is consistent with the existing operation of the fit and proper test.

The new consideration in the fit and proper test applies to providers applying for registration or reregistration after commencement and providers who applied for registration or re-registration before commencement where their applications have not been decided.

Investigations for serious offences can commence a number of months or years after the event. Where a provider is under investigation for the serious offences stated in this provision, the provider may be suspended, to ensure that vulnerable students are not exploited or otherwise continue to be detrimentally affected.

It is important to note that the fact a provider is under investigation does not mean a provider is automatically unfit to be registered – it is a factor that ESOS agencies will consider when determining whether a provider is fit and proper to be registered.

Part 7 – Automatic cancellation of specified courses

Part 7 of Schedule 1 of the Bill enables the Minister to, by legislative instrument, specify certain classes of courses that will be automatically suspended and cancelled. The Minister may exercise this power in relation to classes of courses if satisfied that there are systemic issues in relation to the standard of delivery of the courses, or if the courses provide limited value to Australia's skills and training needs and priorities, or if it is in the public interest to do so. In making this decision, the Minister may consider a wide range of possible evidence, including completion or transfer rates in those courses, which may indicate quality or public interest concerns.

The circumstances in which courses may need to be cancelled go beyond just quality issues, the remit of the ESOS agencies. This power will enable the Minister to act on advice of the Department and other areas of government that can provide evidence of issues in the sector that engage the public interest. Concerns related to skills needs are better determined by cross-agency collaboration rather than regulator action.

Decisions of this nature should be made at the highest level by the Minister in consultation across government rather than by the ESOS agencies. The Bill appropriately allows for these decisions to be transparent and subject to Parliamentary scrutiny. The legislative instruments made to require consultation with certain entities and those made to cancel courses are subject to disallowance by Parliament.

These amendments respond to concerns raised in the Nixon Review and the Interim Report and support the integrity and sustainability of the international education sector by enabling the Minister to better manage the system and take decisive action to prevent providers from delivering a course or class of courses where there is evidence of serious, systemic concerns.

The Minister must obtain written agreement from the Minister responsible for administering the NVETR Act (currently the Minister for Skills and Training), prior to making an instrument that includes VET courses.

The Minister can make an instrument in relation to a course that a provider is registered to provide before, on, or after commencement of the Bill. This is to ensure that courses currently being offered with systemic issues in relation to the standard of delivery, or that provide limited value to Australia's skills and training needs and priorities, or that raise public interest concerns, can be specified in an instrument.

Courses specified in an instrument will not be automatically cancelled for a provider if there are students who have commenced study or will commence study in the 30 days after the instrument commences. No new enrolments for the courses will be allowed to enrol, however, providers will be

able to teach out any students that have already commenced studying the affected courses. The courses would then be automatically cancelled for that provider on completion or withdrawal of the final student.

Providers are not able to apply to register or re-register a course that has been cancelled under this Part while the instrument is still in force. This prevents providers from immediately seeking to re-register courses which have been cancelled for serious, systemic concerns.

In making an instrument, the Minister can respond to emerging risks with flexibility by specifying a class of courses to be cancelled by reference to any matter. This may include, but is not limited to, the kind of course, the kind of provider registered to provide the course, the location of the course, and any other circumstances applying in relation to the course.

Any instrument made by the Minister under these new provisions will not apply to courses delivered by registered providers that are Table A Providers. The Government recognises that Table A providers do not require the same level of course-level oversight as other providers. A lower level of intervention at the course level is appropriate for Table A providers, as they represent a lower risk in terms of integrity. This exemption is part of a balanced approach to ensuring integrity while allowing lower-risk providers to deliver education with an appropriate level of autonomy.

This Part of the Bill also enables the Minister to set out specific consultation requirements in a legislative instrument. This allows for flexibility and responsiveness to emerging risks. Consultation could be required with different persons or entities based on the reasons for which the Minister is cancelling a class of courses. For example, requiring consultation with entities with responsibilities relating to Australia's skills needs would be appropriate when cancelling classes of courses because they have limited value to Australia's current, emerging and future skills and training needs and priorities. This would not be appropriate when cancelling classes of courses based on systemic issues in relation to the standard of delivery of the courses. Similarly, while it may be appropriate to consult with the Minister for Immigration when cancelling courses due to public interest concerns regarding attempts to subvert the visa system, it would be less appropriate to require this consultation where cancellation relates to skill needs.

If the Minister fails to consult as required before making a legislative instrument under this Part of the Bill, it does not affect the validity of the instrument. While it is the intention that the Minister would consult with the relevant people and entities specified by the consultation instrument, ahead of cancelling a course or courses under this Part, this amendment ensures that any cancellation instrument made can be relied upon in all circumstances, to provide certainty to providers and students in the event the technical requirements of consultation are not met. The provision is consistent with section 19 of the Legislation Act, which provides that the validity or enforceability of a legislative instrument is not affected if consultation does not occur.

The Bill provides that compensation may be provided if a court finds that the Minister's power to specify courses to be automatically suspended and cancelled results in the Commonwealth acquiring the property of a provider on unjust terms contrary to section 51(xiii) of the Constitution.

Part 8 – Internal review

Part 8 of Schedule 1 of the Bill enables ESOS agencies to implement a temporary stay of a decision, where a provider applies for an internal review of a reviewable decision under the ESOS Act. This

means an ESOS agency may decide to stay the operation of a decision subject to an application for internal review made on or after commencement, or an application for internal review made before commencement but where the internal review has not yet been finalised.

This Part also extends the timeframe within which ESOS agencies must make a decision in relation to an internal review from 90 to 120 days. This timeframe is required to give ESOS agencies sufficient time to review complex decisions and align with the timeframe the ESOS agency for registered VET providers, the National VET Regulator (currently ASQA), has to reconsider reviewable decisions under section 200 of the NVETR Act. The new timeframe of 120 days to make a 69 reviewable decision will apply to new and existing internal review applications not yet finalised.

Part 9 – TEQSA measures

Part 9, Schedule 1 of the Bill amends the TEQSA Act to support greater regulatory oversight of delivery of higher education courses offshore by Australian education providers. The amendments will require providers to:

- receive authorisation from TEQSA before delivering Australian courses of study offshore;
- notify TEQSA of any new or changed offshore delivery arrangements; and
- provide an annual report to TEQSA on their offshore delivery arrangements.

The proposed amendments align with the 2023 Australian Universities Accord, which recognised TEQSA's role in strengthening quality and accountability in the sector and proposed a review of, and enhancements to, TEQSA's regulatory powers to ensure they remain fit for purpose in a rapidly changing sector.

A separate process is underway to review and strengthen the powers of TEQSA, with a broader focus on all of TEQSA's regulatory functions. The changes in this Bill reflect important concerns about transnational education that require timely action from Government. These measures are consistent with the integrity focus of this Bill and are appropriate to implement ahead of the broader legislative refresh of the TEQSA Act.

The amendments will ensure that registered higher education providers have the appropriate governance mechanisms in place to manage risks associated with the provision of an offshore Australian course of study. The amendments will provide greater transparency on the provision of offshore Australian courses of study.

Transitional arrangements will be in place for providers that are currently delivering courses offshore or that have made arrangements to deliver courses offshore prior to the introduction of the ELA Bill to Parliament. These providers, as long as they inform TEQSA of these arrangements within 60 days of commencement of the Bill, will be automatically authorised to deliver courses offshore.

These requirements minimise the additional burden on providers while facilitating the expansion of higher quality transnational education in a diverse set of markets. The requirements are designed to draw on information that is, or should be, held by any provider that is engaged in the provision of offshore Australian courses of study.

These amendments will enhance the integrity and reputation of Australian higher education delivered offshore and ensure that Australian higher education programs delivered offshore are delivered to the same high quality as those delivered onshore. The requirements set out in these

amendments will also provide continued assurance to offshore governments and partner institutions that Australian providers have the strong governance structures and regulatory oversight needed to deliver high-quality offshore education. The department expects this to act as a market advantage in the long term.

Offshore delivery by Australian providers is increasing and expanding into new markets with new delivery models brings increased complexity and risk. The Government wants to get ahead of issues, not wait until they become a problem. Low-quality offshore delivery risks a poor student experience, damaging Australia's international relationships and diminishing Australia's reputation for education.

Current reporting of offshore delivery arrangements by providers is not consistent across the sector, and government does not have the necessary information to ensure these programs uphold the world-class standard of education Australia is known for. These amendments will assure that all Australian qualifications continue to reflect our high standards, regardless of the delivery location or model.

First Nations medical students measure

Part 10 of Schedule 1 to the Bill amends HESA to uncap places in medical courses for First Nations students. This ensures all First Nations students who meet the entry requirements to enrol in courses in medicine can be enrolled in a Commonwealth supported place. The amendments respond to recommendation 3(b) of the Australian Universities Accord Final Report, which called on the Australian Government to provide places for all eligible First Nations applicants to study medical degrees.

The measure will expand educational opportunities by allowing higher education providers to enrol more First Nations medical students. The measure will complement existing efforts from the medical education sector to increase First Nations student levels and the Government's existing investments in more medical training, particularly in regional Australia.

The measure will also help to address the underrepresentation of First Nations people in Australia's health workforce. In 2023, roughly 0.6 per cent of doctors identified as Aboriginal or Torres Strait Islander, despite being 3.8 per cent of the Australian population.

The *National Medical Workforce Strategy 2021-2031* shows the First Nations health workforce delivers better health outcomes for First Nations patients. This comes down to the unique skill sets and cultural insights of First Nations health workers increasing cultural safety in healthcare settings. First Nations doctors are also more likely to practise in Aboriginal Community Controlled Health Services and in regional, rural and remote communities.

Growing the First Nations health workforce will also support the Government's commitments under the National Agreement on Closing the Gap.

Early childhood education and care measures

Part 1 – Early Education Service Delivery Prices

Part 1 of Schedule 2 to the Bill amends the Family Assistance Administration Act to expand the Secretary's information gathering powers to support the Early Education Service Delivery Prices Project (SDP Project). The amendment enables the Secretary to issue a notice to compel those ECEC providers that are constitutional corporations to provide financial, cost and pricing related information, or any other information the Secretary reasonably believes is necessary for the SDP Project.

The amendment is necessary to enable the Department of Education and the Australian Government to collect relevant information for the SDP project and understand the reasonable cost of safe and quality ECEC service delivery.

This information will be sought voluntarily from all CCS-eligible ECEC providers to the greatest extent possible. The department will seek a representative sample across the sector, prioritising voluntary engagement. Decisions about which providers may be compelled to provide data will be based on the need to ensure robust, representative data for the project, and will be made by the Secretary or their delegate.

Support will be available to assist providers to provide the necessary information, including in response to a notice issued under the Secretary's new power. A notice can only be issued if the Secretary reasonably believes that an approved provider is capable of giving the information.

The power to compel cost and financial information is limited by other parts of the Family Assistance Administration Act dealing with protected information and will only be used to obtain information for the purposes of the SDP Project. Once the SDP project ends, the power to compel this information will have no further practical application.

Information collected under this new power will only be used or disclosed for the purposes of the SDP Project and, if the Secretary reasonably believes, may be used or disclosed if reasonably necessary for research, statistical analysis or future policy development. Access to data will be restricted to authorised departmental staff, and any published findings will be aggregated and de-identified. No findings will be published until the SDP Project is complete. The department will comply with all relevant privacy and data protection laws.

The Secretary's discretionary publication powers enable the data collected through these powers to be released if it is aggregated and de-identified. This approach ensures that commercially sensitive information collected through the exercise of this power remains is protected and that the published data cannot be used as a pricing signal or to influence market competition.

Part 2 – Protected Information

Part 2 of Schedule 2 to the Bill amends the Family Assistance Administration Act to expand the scope to use and disclose protected information collected under the Act. This supports the Government's broader policy objective of optimising public data through the safe, ethical, and lawful release of data as set out in the Intergovernmental Agreement on Data Sharing endorsed by all jurisdictions in 2021. In particular, it supports collaboration with the public, private, and research sectors to extend the value of this data for the benefit of the Australian public.

These amendments to the Family Assistance Administration Act are intended to strengthen the integrity of current ECEC data governance arrangements by clarifying data sharing arrangements and appropriately targeting data aggregation strategies. This will ensure continuity in data reporting and support transparency.

Specifically, these amendments expand the authorisations for the handling of protected information. The amendments authorise the use and disclosure of protected information if the Secretary reasonably believes it is reasonably necessary for research; statistical analysis; or policy development of matters of relevance to a department administering the family assistance law. These changes are consistent with existing provisions in the *Social Security (Administration) Act 1999* and the approach taken in the *Family Assistance (Public Interest Certificate Guidelines) (Education) Determination 2018.*

The amendments broaden the scope to use and disclose protected information relating to approved providers and services. This ensures that protected information can be used and disclosed if it relates to an approved provider or service and has already been made lawfully available to the public. In addition, the amendments authorise the use and disclosure of aggregated protected information relating to approved providers and services so long as it does not directly identify a particular approved provider or service.

The amendments also broaden the Secretary's powers to publish information relating to an approved provider. The Secretary will be empowered to publish information in relation to an approved provider or service if satisfied that the information will promote transparency and accountability regarding the administration of CCS; or promote quality and safety; or encourage provider compliance with the family assistance law.

The amendments insert additional examples of information the Secretary may electronically publish about a provider. These examples are the type of services in respect of which the provider is approved, the number of children enrolled in each service and the address and contact details of the services. The amendments also enable the Secretary to authorise another Commonwealth, State or Territory body to electronically publish the information. These changes are intended to promote transparency and facilitate easier access to information about providers to assist families to make decisions about early education and care.

Part 3 – Two technical amendments

Part 3 of Schedule 2 to the Bill makes two technical amendments to the Family Assistance Administration Act.

Debt technical amendment

The Bill will amend the definition of 'debts' for the purposes section 82 of the Family Assistance Administration Act to include a debt due under section 71DA (debts for CCS or Additional Child Care Subsidy (ACCS) paid for absences which occur before a child's first attendance or after last attendance at a service).

This amendment provides clarity and ensures the avoidance of doubt around the operation and interpretation of section 82.

The amendment will not change how debts recovered, nor will it impact individuals, families, or businesses. It simply ensures the law clearly reflects the intended scope of recoverable debts.

Review technical amendment

The Bill amends paragraph 137A(1)(b) of the Family Assistance Administration Act to ensure consistency between internal reviews and Administrative Review Tribunal (ART) reviews.

When the *Family Assistance Legislation Amendment (Cheaper Child Care) Act 2022* (Cheaper Child Care Act) commenced, section 105C of the Family Assistance Administration Act was amended to allow up to four weeks of CCS back pay for internal departmental reviews following voluntary notification of an Aboriginal and/or Torres Strait Islander child. Four weeks of back pay is consistent with the policy settings on CCS back pay for all other equivalent notifications.

The Cheaper Child Care Act omitted to make equivalent amendments to section 137A of the Family Assistance Administration Act to apply the same back pay terms for ART decisions. This means there is currently an inconsistency between the available outcomes for internal review decisions and ART decisions.

By updating paragraph 137A, this amendment ensures both internal decision makers and the ART apply the same backdating rules. The amendment enhances clarity and removes any ambiguity.

Part 4 – Date of Effect

Part 4 of Schedule 2 to the Bill makes amendments to the Family Assistance Administration Act to ensure that the date of effect of CCS entitlement and eligibility decisions under the Act relating to end-of-financial year reconciliation processes align with the date these decisions take effect in the CCS system (the 'date of effect measure'). The CCS system is the online system used to administer the CCS. It holds records such as enrolments and session reports and is used to calculate payments for families.

Overview of CCS reconciliation

CCS reconciliation is a key part of program integrity. Its purpose is to ensure individuals receive the correct CCS entitlement for a financial year. Individuals meet reconciliation conditions by lodging a tax return, or if not required to lodge a tax return, by notifying Centrelink of their income. Once

these conditions are met, the CCS system compares an individual's (or families') estimated annual income with their adjusted taxable income.

There are two deadlines for individuals to meet the reconciliation conditions.

The first deadline (1DL) is one year after the end of the income year in which CCS entitlement was paid (for example 30 June 2025 for CCS payments made in 2023-24). If reconciliation conditions have not been met by 1DL, determinations of no entitlement will be made in relation to the relevant income year. In addition, CCS payments will be suspended until the individual meets the reconciliation conditions.

The second deadline (2DL) is two years after the end of the income year in which the CCS entitlement was paid (for example 30 June 2026 for CCS payments made in 2023-24). If reconciliation conditions have not been met by the 2DL, CCS eligibility is cancelled, and debt recovery will commence for the subsidy that was paid in the relevant CCS year.

Currently, if an individual does not meet the CCS reconciliation deadlines, the date of effect for ceasing or re-instating their CCS entitlement and/or eligibility in the CCS system is the first Monday of the next CCS fortnight. A CCS fortnight is a 2-week period that starts every second Monday. This current practice aligns with CCS policy intent and is simple for families to understand, noting most CCS entitlement and eligibility decisions take effect from the following CCS Monday.

However, the dates of effect in the CCS system do not align with the dates of effect under the Family Assistance Administration Act, which applies differing dates depending on the scenario. The amendments address this discrepancy and bring the dates of effect under the Family Assistance Administration Act in line with the CCS system.

In addition, the amendments clarify that the CCS system can make an automated decision to cease an individual's CCS eligibility if they have failed to meet the second reconciliation deadline.

Application of amendments

The amendments in Part 4 of Schedule 2 apply retrospectively to a CCS claim for a week in a CCS fortnight starting on or after 2 July 2018, the date CCS commenced. Retrospective application ensures that the relevant past decisions for CCS reconciliations were validly made.

As a result of the current discrepancy between the CCS system and the Family Assistance Administration Act, individuals who have failed to meet the reconciliation deadlines have either been over or underpaid CCS for up to two weeks.

The amendments waive any debts that may have arisen as a result of the misalignment. This prevents the need for recovery action to be taken against families who were overpaid. The amendments also mean that families were not underpaid as a result of the discrepancy.

To mitigate any potential adverse impact on individuals, the amendments provide for the right for individuals to seek compensation if they can show that the retrospective amendments resulted in an acquisition of their property other than on just terms. Most people impacted by the misalignment would have received an overpayment (a maximum of two weeks' CCS entitlement), and for those individuals who may have been underpaid (again a maximum of two weeks' CCS entitlement), they would have also initially received an overpayment.

If the Bill passes, information will be published on the department's website about the date effect issue including details on how to contact the department if an individual believes they have been negatively impacted by these amendments. If individuals contact, the department will work with them to determine the appropriate course of action.

Consultation

International education integrity measures

The department has received extensive feedback from sector representatives in the development of the international education integrity measures, particularly Parts 1 to 7 of Schedule 1 which are substantially the same as Parts 1 to 6 and Part 8 of the lapsed 2024 ESOS Bill.

The 2024 ESOS Bill was referred to the Senate Standing Committee for Education and Employment for inquiry. The inquiry received 196 submissions and held four hearings, where sector representatives expressed their views on the measures which are now included in Parts 1 to 7 of Schedule 1 of this Bill.

Furthermore, the department undertook a public consultation process in 2024 relating to the Draft International Education and Skills Strategic Framework, during which the department received written submissions, conducted webinars and engaged directly with sector bodies, including about the measures in the ESOS Bill.

The department has regularly engaged with the Council for International Education, sector peak bodies, and state and territory representative bodies on integrity measures over 2024 and 2025. The department also considered advice and regularly consulted with relevant Government agencies in the development of the Bill, and in relation to matters relating to the Migration Act 1958, NVETR Act, and the new disallowance exemptions.

The feedback received during this consultation has resulted in some fine tuning of the measures included in the Bill. For example, wording in Parts 4 and 5 of Schedule 1 have been amended to clarify the meaning of terms that some sector representatives reported were ambiguous. This consultation has also informed planning for implementation of the Bill, should it be passed.

In relation to the TEQSA measure in Part 9 of Schedule 1 to the Bill, the department conducted targeted consultations with several peak bodies representing Australian higher education providers, including peak bodies with collective membership that represent a substantial offshore delivery footprint. These stakeholders were supportive of the Government's approach to quality assurance in Australia's offshore education delivery and recognised the important role this will play ensuring that

offshore programs are associated with the same quality academic experience as onshore ones, thereby maintaining Australia's reputation as a top-tier education provider. These stakeholders indicated a preference for a light-touch approach to reporting on offshore delivery activities, which the Government agreed with, noting that TEQSA will consult with the sector on the reporting requirements and process to ensure it is streamlined and minimises any regulatory burden.

The department is continuing to engage with the ESOS agencies and sector representatives on all international education integrity measures to ensure effective implementation of the proposed amendments to the ESOS Act and TEQSA Act and to reduce the likelihood of unintended consequences. This includes the formation of a working group of experienced practitioners to discuss the implementation of the new definition of 'education agent' and its use in the concurrent implementation of the ban on agent commissions for onshore student transfers.

In relation to the making of legislative instruments under Parts 3 and 7 of Schedule 1 of the Bill, the Department will work closely with the ESOS agencies where the Minister decides to make use of the new powers.

Subject to passage of the Bill, if the Minister seeks to use the new powers under Part 3, the Minister is required to consult with TEQSA, the National VET Regulator, and the Secretary of the Department of Education, and to receive written agreement from the Minister who administers the NVETR Act. If the Minister seeks to use the new powers under Part 7, the Minister is required to consult with any persons or entities as specified in the consultation legislative instrument. If a cancellation instrument under Part 7 specifies a class of courses which includes a VET course, the Minister must also receive written agreement from the Minister who administers the NVETR Act. Where a legislative instrument is made under these Parts of the Bill, changes will be communicated to the sector and all impacted providers to ensure that their obligations are clear.

First Nations medical students measure

The Government has consulted with sector representatives Medical Deans Australia and New Zealand (MDANZ) on the First Nations medical students measure. MDANZ was supportive of this measure and the expansion of educational opportunities for First Nations students in the field of medicine.

Early childhood education and care measures

Consultation with key stakeholders (providers and peak bodies) on ECEC measures contained in the Bill was undertaken through the existing ECEC Reference Group. The ECEC measures have been developed with relevant Government agencies.

Early Education Service Delivery Prices Project measure (Schedule 2, Part 1)

Consultation with key sector stakeholders, including ECEC peak bodies, providers and jurisdictions was undertaken through the existing ECEC Reference Group, the Early Education Service Delivery Prices Project Sector Reference Group and Early Education Policy Group.

Date of effect measure (Schedule 2, Part 4)

Legislative amendments for the date of effect measure were drafted in close consultation with Services Australia.

Commencement of the Bill

Subject to the Bill passing Parliament, the whole of the Bill's provisions will commence on the day after the Education Legislation Amendment (Integrity and Other Measures) Bill 2025 receives Royal Assent.

International education integrity measures

Transitional arrangements will be in place for Part 9 of Schedule 1 of the Bill (TEQSA measures). This will help give registered higher education providers certainty on the timing associated with authorisation applications, reporting, and where offences and civil penalty provisions will apply. It will also provide certainty to students studying under existing offshore delivery arrangements. The transitional arrangements will also enable providers to appropriately plan for the new provision of Australian courses of study offshore, as well as allowing current providers time to understand their new obligations.

Amendments under Parts 3 and 7 of Schedule 1 of the Bill require legislative instruments to give effect to the provisions of the Act. Amendments under Parts 3, 5, and 6 of Schedule 1 of the Bill can be applied retrospectively to ensure the relevant sections operate as intended.

The department will continue to engage with the international education sector through forums, peak bodies, and written information via departmental and Provider Registration and International Student Management System (PRISMS) channels to inform stakeholders of the new requirements.

First Nations medical students measure

Administrative arrangements will be outlined in each university's Commonwealth Grant Scheme Funding Agreement after the passage of this bill. This will include the number of each university's designated medical CSPs for non-First Nations domestic students.

The department will continue to engage with the medical education sector directly though providers and peak bodies like the Medical Deans Australia and New Zealand and with the Department of Health, Disability and Ageing to provide information and monitor the impacts the measure will have on First Nations student enrolments and success rates.

Early childhood education and care measures

The SDP project commenced in June 2025, with final outputs from the project expected in December 2026. The data collection phase of the project commenced in October 2025. The power will only have a practical application for the life of the project and cannot be used until the amendments commence.

The date of effect amendment under Part 4 of Schedule 2 to the Bill applies with retrospective effect, to any decisions on CCS entitlement and eligibility relating to end-of-financial year reconciliation processes, since the commencement of the CCS on 2 July 2018.