



Queensland University of Technology

Submission to the Senate Education and Employment Legislation Committee inquiry into the provisions of the *Education Legislation Amendment (Integrity and Other Measures) Bill 2025*

QUT welcomes the opportunity to comment on proposed measures to improve the quality and integrity of Australia's international education sector.

The present Bill seeks to amend (in the order of its Parts):

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

ESOS Act amendments

Risk-based approach

The elements of this Bill that amend the *ESOS Act* – Parts 1 to 8 of Schedule 1 – seek to enact quality and integrity measures largely similar to those entailed in Parts 1 to 6 (and, with significant modification, Part 8) of the *Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024*, which lapsed at the end of the 47th Parliament.

As we wrote last year, QUT is pleased that the Government recognises and is acting on compromises to the quality and integrity of the wider Australian international education system that universities have been warning about for some time. We agree that the orderly and responsible conduct of international higher education must be protected.

In our submission to the Committee on the 2024 Bill, we argued strongly that those institutions which have been doing the right thing all along should not be adversely affected by measures to correct the improper behaviour of others; and that additional regulation should be imposed proportionate to actual risk.

We are therefore pleased to note that the Bill has adopted this stance by exempting Table A providers from the provisions of Part 7 of Schedule 1, 'Automatic cancellation of specified courses'. The Bill's Explanatory Memorandum (EM) crisply articulates the rationale for this sensible risk-based approach:

The Government recognises that Table A providers do not require the same level of 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.
(paragraph 200, p.59)

Course cancellation ‘in the public interest’

Nevertheless, while recognising that this Ministerial power will not apply to Table A providers like QUT, we remain concerned that the power is too extensive as a Minister would be bound by no real limits in the legislation. We are particularly concerned that the Bill provides for a Minister to cancel courses if they are satisfied that “it is in the public interest to do so” (paragraph 96B(1)(c)) – an absolute freedom that is bolstered by subsection 96B(3) which allows the Minister to consider any matter whatsoever in making a decision under subsection 96B(1).

The vague motive of ‘public interest’ has been cited in the past to justify unacceptable political interference through the application of a Ministerial veto to ARC grants recommended for funding. That vulnerability was removed by this Government and the previous Parliament through the amendment of the *Australian Research Council Act 2001* (ARC Act), on the recommendation of the Independent Review of the ARC Act (the Sheil Review). We do not see that political interference is any more appropriate or acceptable in learning and teaching than it is in research. We respectfully ask whether it is indeed a power a Minister would even want: the inclusion of an unbounded rationale for intervention can only open Ministers to pressure from media commentators and other agitators conducting culture wars to cancel courses they simply do not like. The power is dangerously sweeping – ‘public interest’ means whatever a Minister wants it to mean – and invites inappropriate political intervention of the same kind that the Government and the Parliament have recently proscribed in a similar context.

QUT recommends that Section 45 in Part 7 of Schedule 1 be amended to delete new paragraph 96B(1)(c), which provides the undefined ‘public interest’ reason for cancellation.

Disallowance

While we note the rationale for exempting from disallowance certain legislative instruments made under Part 3 amendments to the *ESOS Act* (to suspend applications for registration or to add course to registration), outlined in paragraphs 87-89 (pp.37-38) and 125-127 (pp.43-44) of the EM, we find the EM’s assurance that “the Minister will only exercise this power in limited circumstances” to be rather hopeful.

Under these provisions, a future Minister could prevent an established, reputable provider from offering a new degree course to international students, for example – for any reason, without being accountable to the Parliament. The Bill does not constrain a

future Minister to act only in the kinds of scenarios outlined in the EM – “where the Minister has concerns relating to the integrity or sustainability of the international education sector and urgent, decisive action is required” – and the Parliament would be incapable of preventing any abuse of these powers.

A legislative instrument takes effect immediately upon registration on the Federal Register of Legislation, so the urgency argument is unconvincing. The EM’s contention that this is an inherently Executive function – as it relates to the operation of agencies – is also misplaced, as the EM is itself emphatic that the power would (or should) only be deployed for systemic ends: the direction of ESOS agencies is only the means. The excision of Parliament’s oversight of the exercise of delegated legislation is therefore excessive and unwarranted.

QUT recommends that Section 32 in Part 3 of Schedule 1 be amended to delete new subsections 14C(8), 14D(8), 14E(6) and 14F(6), which deny the Parliament its ability to disallow a legislative instrument made under the related sections.

TEQSA Act amendments

QUT cautiously supports the proposed amendments to the *TEQSA Act* regarding the delivery of Australian courses of study at offshore premises (Part 9 of Schedule 1). We note that TEQSA will need to work closely with the sector to ensure that implementation of its new powers of oversight benefits from real-world experience of offshore provision, as this is an arena outside the previous remit and expertise of TEQSA as an agency, and of many of its officers.

HESA amendments

QUT strongly endorses the Bill’s objective of extending access to demand driven places for eligible Australian Indigenous students to courses of study in medicine, through the proposed amendments to HESA (Part 10 of Schedule 1).

FAA Act amendments

We make no institutional comment on the proposed amendments to the *FAA Act* regarding early childhood education and child care matters (Schedule 2).

Conclusion

QUT is otherwise comfortable with the Bill, and recommends that it be amended as above then passed.