

University of South Australia

Submission on the proposed Education Services for Overseas Students Amendment (Streamlining Regulation) Bill 2015 and Education Services for Overseas Students (Registration Charges) Amendment (Streamlining Regulation) Bill 2015

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT (STREAMLINING REGULATION) BILL 2015		
PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 1 – Streamlining the roles of government agencies</p> <p>Clearer roles for Commonwealth quality assurance agencies, and state and territory agencies through:</p> <ul style="list-style-type: none"> • creation of the <i>'ESOS agency'</i> • redefining designated authority for schools as the <i>'designated State authority'</i>, including territory agencies • revised definition of <i>'provider'</i>. <p>Broader definition of <i>'provider'</i>.</p>	Support	•

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 1 – Streamlining registration processes</p> <p>Providers will apply directly to their ESOS agency for:</p> <ul style="list-style-type: none"> • initial registration • renewal of registration • adding courses at locations to an existing registration. <p>The ESOS agency must use a risk management approach when making a decision.</p>	Neutral	•
<p>Schedule 1 – Meeting registration requirements</p> <p>The ESOS agency for a provider must be satisfied that the provider is complying, or will comply, with the ESOS Act and the National Code, and the ELICOS or Foundation Program Standards (as relevant).</p> <p>The ESOS agency should have no reason to believe the provider has not been providing or will not provide education of a satisfactory standard to overseas students.</p>	Neutral	•

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 1 – Imposing conditions on registration</p> <p>An ESOS agency will decide whether to impose, vary or remove conditions on a provider’s registration at any time during that registration.</p>	Neutral	•
<p>Schedule 1 – Use of other relevant information</p> <p>Use of relevant information by the ESOS agency to assess applications for registration or reregistration or adding courses at locations where information has been received for other purposes but is relevant to the application under ESOS, for example registration under the TEQSA Act or NVETR Act.</p>	Support	•
<p>Schedule 1 – Aligning registration periods</p> <p>Remove the minimum registration period and extend the maximum registration period to 7 years.</p>	Support	•

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 1 – Extension of registration</p> <p>The ESOS agency may extend a provider’s registration, using a risk management approach when making the decision, for the purpose of aligning domestic and international registrations.</p>	Support	•
<p>Schedule 1 – Exemptions for certain providers</p> <p>Continue to exempt certain providers from some ESOS Act requirements (e.g. fit and proper person).</p>	Support	•
<p>Schedule 1 – Continuation of a provider’s registration</p> <p>Allow providers to continue to teach students who had enrolled in a course before the registration expired, but clarify that the provider cannot recruit or enrol new students after the expiry date of its registration.</p> <p>If a provider applies to renew its registration, the registration will continue until the ESOS agency has made a decision on an application to renew a provider’s registration.</p>	Neutral	•

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 1 – Automatic suspension and cancellation of registration</p> <p>If an ESOS agency is no longer satisfied a registered provider is fit and proper, the provider’s registration is automatically suspended for all courses at all locations.</p> <p>Where a higher education or VET provider’s registration under domestic frameworks is cancelled, the provider’s CRICOS registered courses will automatically be cancelled.</p> <p>For schools, if approval of the school by a state or territory ceases, CRICOS registered courses are automatically cancelled.</p>	Support	<ul style="list-style-type: none"> •
<p>Schedule 1 – Authorised officer</p> <p><i>‘Authorised officer’</i> replaces <i>‘authorised employee’</i> consistent with the TEQSA Act and NVETR Act.</p>	Neutral	<ul style="list-style-type: none"> •

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 1 – Breaches of ELICOS Standards or Foundation Program Standards</p> <p>Enforcement action may be taken by an ESOS agency for a breach of the ELICOS Standards or Foundation Program Standards.</p>	Support	<ul style="list-style-type: none"> •
<p>Schedule 1 – Publication of enforcement actions</p> <p>An ESOS agency may publish results of enforcement and monitoring actions taken (in a way set out by legislative instrument).</p>	Support	<ul style="list-style-type: none"> •

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 2 – Internal review of certain decisions</p> <p>Providers will be allowed to seek an internal review of some decisions made by the relevant ESOS agency where previously only appeal to the Administrative Appeals Tribunal was available.</p> <p>Appealable decisions include:</p> <ul style="list-style-type: none"> • refusal of initial registration • refusal of registration renewal • refusal to add a new course at a location • decision to take enforcement action against a registered provider under section 83 of the ESOS Act. 	<p>Neutral</p>	<ul style="list-style-type: none"> •

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 3 – Ministerial directions</p> <p>The Minister responsible for the administration of the ESOS Act will be able to direct an ESOS agency in the performance of its functions.</p> <p>The Minister must not, however, give a direction about or in relation to a particular provider or registered provider.</p>	<p>Neutral</p>	<ul style="list-style-type: none"> •
<p>Schedule 4 – TPS Director to issue production notices</p> <p>Allow the TPS Director to issue production notices, consistent with powers given to ESOS agencies.</p> <p>The TPS Director will be assisted by a ‘TPS officer’, who will have defined roles and responsibilities.</p>	<p>Neutral</p>	<ul style="list-style-type: none"> •

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 4 – TPS Director recommendation to ESOS agency</p> <p>The TPS Director can make a recommendation to an ESOS agency that the agency take enforcement action under section 83(1A) of the ESOS Act.</p> <p>The ESOS agency must consider the TPS Director’s recommendation when deciding to take action against a provider.</p>	Neutral	<ul style="list-style-type: none"> •
<p>Schedule 5 – Student default reporting</p> <p>Remove the requirement on providers under section 47C of the ESOS Act to report a student default to the Secretary and the TPS Director.</p> <p>Where there has been a student default, providers must still report that they have met their obligations to students in cases of visa refusal or where there is no compliant written agreement between the provider and the student.</p>	Support	<ul style="list-style-type: none"> • The University fully supports the removal of this burdensome requirement from the ESOS Act.

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 5 – Information about accepted students (including student course variation)</p> <p>Reporting period extended to be within 31 days, except where the student is under 18 years of age, which requires reporting within 14 days.</p>	Support	<ul style="list-style-type: none"> • The University fully supports the extension of the student course variation reporting period from 14 to 31 days.
<p>Schedule 5 – Changes to the collection of tuition fees</p> <p>Students or third parties will be allowed to pay more than 50 per cent of tuition fees up front if:</p> <ul style="list-style-type: none"> • a request is made to do so (by the student or a third party), or • the course has a duration of 24 weeks or less (is a short course). <p>Removal of the restriction on the subsequent collection of fees (which also relates to a study period).</p>	Support	<ul style="list-style-type: none"> • The University fully supports this amendment. We however have a concern with the exact wording/interpretation of the amendment. If a student or third party pay more than 50 per cent of their tuition fees to a provider without “formally requesting” to pay more than the required amount, this should also be allowed (as an implied request), rather than having to separately ask the student for their express approval. This would create an unnecessary administrative burden. • In addition, the University supports the exclusion of a course that is 24 weeks or less, as long as PRISMS retains the current restriction at 30 weeks to allow for Confirmation of Enrolment documents to be created that include orientation periods and the standard end dates used by many providers.

PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 5 – Removal of designated account requirement</p> <p>Remove the specific provisions requiring a designated account in which all non-exempt providers must hold tuition fees paid by students prior to commencement of a course.</p>	Neutral	•
<p>Schedule 5 – Removal of the definition of ‘study period’</p> <p>Remove the definition of and references to a ‘study period’ and associated requirements.</p>	Support	•
<p>Schedule 5 – Reminder notices for late payments of charges</p> <p>Providers to be sent reminder notices for the annual registration charge where they have failed to pay by the due date and automatic suspension would occur.</p> <p>New provisions are consistent with current arrangements for late payments of the TPS Levy.</p>	Support	•

ADDITIONAL COMMENTS ON THE BILL (MAXIMUM 500 WORDS)

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EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT (STREAMLINING REGULATION) BILL 2015		
PROPOSED MEASURES	SUPPORT/DO NOT SUPPORT/NEUTRAL	COMMENTS (MAXIMUM 300 WORDS)
<p>Schedule 1 - Charging arrangements</p> <p>As a result of removing the two-year minimum registration period, the entry to market arrangements are clarified to ensure a new provider is not charged twice if its initial registration period is less than two years and it seeks renewal.</p>	Neutral	<ul style="list-style-type: none"> •