



**Australian Government**  
**Department of Education**

# ***Education Legislation Amendment (Tuition Protection and Other Measures) Bill 2019***

Submission from the Department of Education to the  
Education and Employment Legislation Committee

30 October 2019

*Opportunity through learning*

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# Education Legislation Amendment (Tuition Protection and Other Measures) Bill 2019

## Introduction

The Department of Education (the department) welcomes the opportunity to make a submission to the Education and Employment Legislation Committee Inquiry into the *Education Legislation Amendment (Tuition Protection and Other Measures) Bill 2019*, *VET Student Loans (VSL Tuition Protection Levy) Bill 2019*, and the *Higher Education Support (HELP Tuition Protection Levy) Bill 2019*.

This submission will focus on the current arrangements in place regarding the Australian Government's assistance to international students under the Tuition Protection Service (TPS) and the proposed new arrangements in relation to Australian domestic students with a VET FEE-HELP or HECS-HELP loan at a private higher education provider.

The department agrees with the submission to this Committee made by the Department of Employment, Skills, Small and Family Business, which sets out the rationale and general operation of the proposed scheme for both vocational education and training and higher education where supported by the VET Student Loans or the Higher Education Loan Program.

## Current Tuition Protection Service (TPS) for International Students

### Background

The Australian Government regulates the provision of education and training services to overseas students through the education services for overseas students' legislative framework, which includes:

- Education Services for Overseas Students Act 2000 (ESOS Act);
- Education Services for Overseas Students Regulations 2001 (ESOS Regulations);
- National Code of Practice for Registration Authorities and Providers of Education Training to Overseas Students 2007 (National Code);
- Education Services for Overseas Students (Registration Charges) Act 1997; and
- Education Services for Overseas Students (TPS Levies) Act 2012.

In 2010, a review of the ESOS Act, chaired by former Member of Parliament, the Hon Bruce Baird AM made a number of recommendations to the Australian Government to support the interests of international students, deliver quality education, effective regulation and sustainability of the international education sector. Key amongst these recommendations were initiatives to improve consumer protection mechanisms for international students. Subsequently the Australian Government brought forward a suite of legislative amendments to address the recommendations including the creation of the TPS.

### **Main Objective**

The TPS was established on 1 July 2012 to assist international students on a student visa to find a new course if their provider closes unexpectedly or to pay them a refund of their unspent tuition fees.

The TPS is funded by industry through an annual levy paid by all providers of education to international students. The annual levy amount is set each year by the statutorily appointed TPS Director who is advised on the levy settings by the statutorily appointed TPS Advisory Board.

The funds collected through the TPS Levy are used to assist students affected by unexpected provider closures and to contribute towards operational costs.

### **Expanded TPS arrangements**

In August 2018, the Government announced that the TPS would expand to cover two cohorts of domestic students:

- Australian students with a Vocational Education and Training Student Loan (VSL).
- Australian students with a FEE-HELP or HECS-HELP loan at a private higher education provider.

Pending the passage of legislation the commencement of these new arrangements is expected from 1 January 2020.

### **Effects of an Expanded TPS on International Students**

The expansion will not change the current TPS arrangements or services provided to international students. International students will continue to be supported by the TPS in the event of an education provider closure with no impact on service delivery.

Under the proposed legislation, the TPS will comprise three separate funds (Higher Education, VET and International) which will be used to pay refunds to students where education providers are unable to fulfil their commitments. This means that each element of the TPS will have its own separate fund, special account and levy collection and there will be no cross subsidisation of services.

- The VSL Tuition Protection Fund will support the VSL TPS.
- The HELP Tuition Protection Fund will support the HELP TPS.
- The Overseas Students Tuition Fund will continue to support the international TPS.

The day-to-day operational support of the TPS will continue to be provided by the Department of Education. Policy oversight for tuition assurance will remain with the relevant departments:

- International and Higher Education with the Department of Education.
- VET with the Department of Employment, Skills and Small and Family Business.

The function of the TPS Director are proposed to expand to cover the role of the VSL Tuition Protection Director and the HELP Tuition Protection Director. Similarly, the functions of the TPS Advisory Board are proposed to expand to cover the provision of two new funds.

## **Expansion of TPS to Domestic Higher Education Students at Private Providers or TAFEs**

The two levy bills – the *VET Student Loans (VSL Tuition Protection Levy) Bill 2019* and the *Higher Education Support (HELP Tuition Protection Levy) Bill 2019* are largely aligned, however, the Minister responsible for administering the HELP Tuition Protection Levy Act will set the administrative fee component for the HELP tuition protection levy.

A HELP Tuition Protection Director, who will be the same person as the VET Student Loans Tuition Protection Director and TPS Director, will administer HELP tuition protection arrangements. Like VSL providers, HELP providers will contribute annual levies to a new separate special account managed by the Director and will have obligations if they default. The Bill ensures that both cohorts of students – those accessing VSL and those accessing HELP at a private education provider or TAFE – are afforded sustainable protection against providers closing or ceasing to deliver courses.

The risk of provider default in the higher education sector is low. There have only been two significant higher education provider closures in the last five years, both closures attributable to the failure of related VET sector providers. The additional requirements and scrutiny applied to providers under the VSL Act as well, as the continued regulation of the VET sector by the Australian Skills Quality Authority (ASQA), reduce the risk of similar events moving forward.

The *Education Legislation Amendment (Provider Integrity and Other Measures) Act 2017* strengthened student protections and regulatory frameworks under HESA to prevent the emergence of unscrupulous practices in the non-university higher education sector. As noted by the Department of Employment, Skills, Small and Family Business in respect to VSL providers, higher education providers are also subject to a rigorous registration process and consistent compliance monitoring, which ensures they are of high quality and low risk of default.

Table A providers under HESA are exempted from the new tuition protection arrangements. Table A providers are principally public universities that have been historically exempt from tuition protection requirements in recognition of the minimal risk of closure. While Table A providers contribute an administrative levy to the International TPS model, they do not pay the risk rated component of the levy. By contributing to the TPS levy model, Table A universities can enjoy the shared reputational benefits the TPS brings as a powerful and shared selling advantage for all Australian international education providers as they compete against the rest of the globe.

The department acknowledges concerns raised about tuition assurance arrangements for domestic higher education students who are not assisted by income contingent loan programs and notes that these arrangements remain unchanged. These students will continue to be protected under the Higher Education Standards Framework (Threshold Standards) 2015, administered by the Tertiary Education Quality and Standards Agency (TEQSA).

## **Conclusion**

In concluding, the new tuition protection arrangements will not change the current TPS arrangements or services provided to international students and form part of ongoing work to improve the quality of training, student protections and reputation of the higher education sector.