

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the Education Services for Overseas Students Amendment Bill 2005

Submission no:

Received:

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Introduction

The NLC would like to commend the senators responsible for referring this bill to committee for inquiry. The NLC believes that this bill will have an extremely important affect on all international students in Australia and indeed the international education sector and is therefore grateful to be given the opportunity to submit a paper discussing the potential affects. This paper will address the two matters contained in the current legislation before the Senate and the House of Representatives.

1. The ability of foreign owned universities in Australia to register on the Cricos registration and therefore enrol overseas students.
2. The ability of institutions to charge international students any amount of money included in the tuition fee to enable the institution meet its obligations under the Esos Act.

List of recommendations

1. That sections 1-4 be adopted into the Esos Act to ensure the availability of courses to international students in Australia in addition to Australian students in Australia following careful consideration by the Senate committee of the long term affects of such a move on Australian institutions, Australian qualifications and international students education outcomes.
2. That the bill be amended such that the amount charged to international students for the provision of services required under the Esos Act be included in the definition of course monies within the Esos Act 2000 and not be included in the tuition (by definition) fee but rather a separate itemised fee.
That the amendment include a requirement that all monies charged to international students above the domestic full fee tuition charge, include itemized amounts relating to the services provided under Esos requirements.
- 3 NLC recommends that item 5 & 6 if this amendment to the Esos Act be removed from the bill and that the VSU legislation also be withdrawn, to allow the highest quality of service provision, student support services and student representation to prosper and continue to participate and influence the direction of university campuses.

Foreign owned institutions registering with CRICOS

NLC has been involved every step of the way for the past 20 years in protecting the standard of quality of education in Australia provided to international students is protected in legislation. For institutions to exist in Australia, they must undergo certain quality assurance measures and NLC is confident that to be included under the Higher Education Legislation these quality assurance measures will be applied to ensure that institutions meet the Australian standards. In addition, NLC is confident that the strict measures that any institution must undergo to be registered with CRICOS would be applied to all overseas owned institutions wanting to set up campuses in Australia and that audit and quality processes would be undertaken following registration as outlined in the Esos Act. The reputation of the Australian international education sector will be as much affected by the quality of overseas owned institutions in Australia as Australian owned institutions. It is imperative however that all overseas owned institutions intending to open campuses in Australia are made aware of their obligations under the Esos Act and the National Code of Practice.

It is clear that this amendment is being introduced to allow the Carnegie Mellon University to offer courses to overseas students.

The NLC would like to bring to the attention of the senate the haste in which such registration and amendment to the Esos Act has occurred. There is concern through this that there may not have been enough consideration given to the long term affect of such registration, this can be compared with what has occurred with overseas campuses of Australian institutions. Should the long term affect of this registration harm student outcomes and quality of education, the NLC would be disappointed to find that this could not be foreseen due to the rush to introduce Carnegie Mellon University into South Australia.

Recommendation

That sections 1-4 be adopted into the Esos Act to ensure the availability of courses to international students in Australia in addition to Australian students in Australia following careful consideration by the Senate committee of the long term affects of such a move on Australian institutions, Australian qualifications and international students education outcomes.

Tuition fees containing fees for requirements under Esos Act and National Code

The NLC strongly opposes this section of the amendment in its current form as it is an unnecessary amendment at present with little or no regard for the welfare of international students, but rather exposes the hypocrisy of present government policy.

Item 6

At the end of section 18

Add:

(2) A registered provider does not breach its obligations under this Act 2 or any other Act relating to education by charging overseas 3 students, or intending overseas students, an amount as part of the 4 student's tuition fee, if the amount is for any action the provider is 5 required to undertake because of this Act or the national code. 6

Note: The heading to section 18 is replaced by the heading "**Payments to registered 7 providers**". 8

There is a clear link between this amendment and the VSU legislation¹ which prevents universities from charging a compulsory fee to students for non academic related services. This amendment is only necessary should the VSU legislation be implemented, to allow universities to require international students to pay for non academic services while not allowing universities to charge domestic students for any non academic services. As the Esos legislation currently requires that certain services be provided for international students, this legislation amendment appears to be doing no more than protecting the provision of such services for international students. The NLC, however, believes that the affect of such a move by government will do much more than that. This move will create division on university campuses between international and local students and in most cases lower the standard of service provision, leaving international students paying for the provision of services that are currently paid for by all students.

The NLC has always highlighted the need for better provision of services for international students on university campuses. Campuses that provide excellent services

¹ Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005

and welfare support for students usually have a more successful academic outcome and better reputation internationally. Currently the universities charge, on average 22% more in tuition fees to international students than full fee paying domestic students. (see table one) Therefore already international students are paying extra in tuition fees for the university to meet its obligations under the Esos Act and the National Code. NLC then questions if this legislation is not hypocritically linked to the VSU legislation, why is it necessary to amend the Esos Act at all?

While NLC opposes the amendment for the reason above, the need for student support services on every campus is clearly demonstrated in many forums and agreed upon by all stakeholders in international education. Therefore, NLC suggests that if this amendment should occur, it should clearly require that the student invoice be itemised to enable students to see what they are paying for, rather than just have the services component included in the tuition fee. NLC has good reason for recommending such a requirement.

Table 1, shows a sample of similar courses available at 12 Australian universities from each state and territory. The fees are annual fees for Domestic full fee paying places and international full fee paying places. The similarity between the fees in each is that neither place is eligible for any government funding. Currently there is no requirement for universities to demonstrate why they are charging international students such high fees considering both domestic full fee places and international student places are not be funded at all by taxpayer funding. Therefore, what does the extra money go towards? International students receive exactly the same level of education service as their domestic counterparts. The NLC would like to assume that the extra charge is actually added on without itemisation to fund some of the services that are required under the Esos Act obligations. The NLC would not like to assume that the extra money is used to fund shortfalls in commonwealth funding for university revenue. However, the introduction of the above amendment is a very strong indication that this may become the case in many institutions, as there is no requirement for description, itemisation or indeed capping of amounts. The NLC fears this may open the door to much more exploitation of international students with little or no ability for checks and balances and has difficulty

supporting the amendment in its current form because of the current ability that institutions have to charge extra in fees to international students, without any requirement for itemisation of where the money is spent and without any indication to students that they will be better off for this amendment.

The inclusion of any amount in a tuition fee charged to international students would not follow a definition of “tuition fee” according to the Macquarie Dictionary or the Higher Education Support Act 2003 and or in fact the definition of “fee” in the HES Act 2003, which would support the recommendation to require that universities list the charges for services and Esos provisions as separate charges to tuition fees. See the definitions below:

tuition *n.* 1. teaching or instruction, as of pupils. 2. the charge or fee for instruction.²

And the definitions of fee and tuition fee according to the Higher Education Support Act are as follows:

19-102 Meaning of fee

(1) A *fee* includes any tuition, examination or other fee payable to a higher education provider by a person enrolled with, or applying for enrolment with, the provider.

(2) A *fee* may also include any fee payable to the provider in respect of the granting of a *higher education award.

(3) A *fee* does not include a fee that is:

(a) payable in respect of an organisation of students, or of students and other persons; or

(b) payable in respect of the provision to students of amenities or services that are not of an academic nature; or

(c) payable in respect of residential accommodation; or

(d) imposed in accordance with the Commonwealth Grant Scheme Guidelines for the imposition of fees in respect of *overseas students; or

(e) payable in respect of studies (other than an *enabling course) that are not permitted to be undertaken for the purpose of obtaining a *higher education award; or

(f) determined, in accordance with guidelines issued by the Minister, to be a fee of a kind that:

(i) is incidental to studies that may be undertaken with a higher education provider; and

(ii) meets the criteria specified in the Commonwealth Grant Scheme Guidelines; or

(g) a *student contribution amount payable in respect of a student.

19-105 Meaning of tuition fee

A person's **tuition fee** for a unit of study is:

(a) if all of the following apply:

(i) the unit forms part of a *course of study with a higher education provider;

(ia) the person is undertaking the unit with the provider;

(ii) the person commenced that *course of study in a particular *student cohort;

(iii) the provider has determined, in accordance with section 19-91, a *fee for the unit that

² **The Concise Macquarie Dictionary – Revised Edition**, 1982, Doubleday Australia Pty Ltd, NSW, pp1397.

applies to students in that cohort;
(iv) the person satisfies any conditions that apply to the cohort under that section in relation to the fee for the unit; the fee determined under that section for the cohort; or
(b) if paragraph (a) does not apply and a different fee for the unit has been determined for each course of study in accordance with subsection 19-90(3)—the fee determined for the unit for the person's course of study; or
(c) in all other cases—the fee determined under subsection 19-90(2).³

Therefore, the inclusion of amounts in the tuition fee that are to fund other services and acts required to be undertaken by institutions should not be included in tuition fees but rather a separate itemised charge.

If we were to follow government policy and rhetoric, we would recommend that this charge be a voluntary sum, and that students should not have to pay for services they may not use or access and should not have to fund the provision of services that they do not necessarily want or need. But NLC realizes that all students on Australian university campuses would not be better off in a user-pays environment. This would be unsustainable and jeopardize the quality and standard of education provision for international and domestic students.

Recommendation

That the bill be amended such that the amount charged to international students for the provision of services required under the Esos Act be included in the definition of course monies within the Esos Act 2000 and not be included in the tuition (by definition) fee but rather a separate itemised fee.

That the amendment include a requirement that all monies charged to international students above the domestic full fee tuition charge, include itemized amounts relating to the services provided under Esos requirements.

The National Code of Practice requires the following services be available for international students to access; - academic progress advice/counselling, further study/career advice, accommodation advice/counselling, orientation, and grievance dispute resolution advocacy services. The National Code of Practice act also requires the following:

³ Higher Education Support Act, 2003 pp 29,30

48 The registered provider must appoint a suitably qualified person as student contact officer, and ensure that the officer is aware of their responsibilities.

The registered provider must advise commencing students of the contact details for this officer. The officer will be responsible for provision of support services to overseas students, including counseling, which will:

48.1 Promote the successful adjustment by overseas students to life and study at an Australian institution.

48.2 Assist students to resolve problems which could impede successful completion of their study programs.⁴

Other services that are currently used and needed by most international students on university campuses, include employment services, financial assistance/advisory services, social and multicultural clubs and societies, multicultural events, second hand bookshops, discounted food and retail shops and legal services. While these are not prescriptively required by the Esos Act and the National Code, it can be argued that they certainly all could be included under section 48 (48.1 &48.2).

Many services in the list above and in the prescribed list in the National Code, are currently funded through the compulsory payment of the student amenities fee. These services are currently provided by the student organizations on the campuses **not** the university. When the distinction is made between which services are provided by the university within the tuition fee and which services are provided through the soon to be banned, compulsory amenities fee, we gain a clear understanding of the problems that will occur if this amendment is allowed with no change and the VSU legislation is implemented. Potentially, many of the above services will either cease to exist leaving universities in breach of the Esos Act anyway, or international students may be the only students funding most services. It would be very unlikely that the services provided by Student organisations will be taken over by the international offices of each campus or the student support services of the university. With this dilemma, we consider the implications of only international students accessing support services, or all students accessing services but only international students paying a compulsory fee. The crucial services that all students fund currently and that international students access more so

⁴ **The National Code of Practice**, DEST, 2001 pp 12,13

than domestic students will either cease to exist under VSU or be of a very low quality, whether or not they are a requirement of the Esos Act.

The final point that is imperative to this amendment is the ability for international students to make choices about what they spend their money on. The VSU debate has been largely centred around the students choice to pay for and fund services they may not need or use. The NLC believes that compulsory amenities fees are the only way a university can successfully provide a fair and equitable range of services for all students. In addition to this, the use of the funds collected through this compulsory fee are decided by students, for students. The amendment that is proposed to the Esos Act, does not give any student a choice or a right to determine what services are to be provided or how the money is spent. This amendment and the VSU legislation in fact stop choice and hinder the provision of quality services for all students. Support for clubs and societies that provide a social life for many international students, and replace family and support networks from home are not guaranteed under this amendment and the probability that these things will exist following this amendment is low on most university campuses.

Recommendation

NLC recommends that item 5 & 6 if this amendment to the Esos Act be removed from the bill and that the VSU legislation also be withdrawn, to allow the highest quality of service provision, student support services and student representation to prosper and continue to participate and influence the direction of university campuses.

Table one

Annual Tuition fees 2005 and 2006 for international and full fee domestic students

University	UG Course	Domestic full fee	International full fee	\$ difference per year	Percentage difference	Average \$ difference	Average % difference
University of QLD	Psychology	\$13,600	\$16,800	\$3200	23%	\$2666.67	19%
	Economics	\$13,600	\$16,000	\$2400	17%		
	Law	\$13,600	\$16,000	\$2400	17%		
University of Sydney	Arts	\$15,888	\$16,320	\$432	3%	\$1356	7%
	Commerce	\$18,144	\$20,160	\$2016	11%		
	Engineering	\$20,160	\$22,176	\$2016	10%		
	Pharmacy	\$20,160	\$21,120	\$960	5%		
University of Melbourne	Architecture	\$19,150	\$23,300	\$4150	22%	\$3106.67	16%
	Arts	\$15,270	\$18,450	\$3180	21%		
	Commerce	\$19,150	\$23,300	\$4150	22%		
	Law	\$22,240	\$23,260	\$1020	4%		
	Science	\$21,070	\$24,210	\$3140	15%		
	Engineering	\$21,000	\$24,000	\$3000	14%		
Monash University	Arts	\$12,750	\$17,200	\$4450	35%	\$4078	24%
	Commerce	\$16,480	\$20,000	\$3520	21%		
	Engineering	\$19,700	\$24,500	\$4800	24%		
	Law	\$18,850	\$21,400	\$2550	13%		
	Science	\$17,500	\$22,570	\$5070	29%		
University of WA	Arts	\$12,825	\$17,000	\$4175	32.5%	\$5885.25	53%
	Commerce	\$10,574	\$19,000	\$8426	79.6%		
	Law	\$9,744	\$18,500	\$8756	89.8%		
	Engineering	\$19,816	\$22,000	\$2184	11%		
University of Technology Sydney	Law	\$16,336	\$18,000	\$2264	14%	\$3144	21%
	Business	\$16,660	\$18,000	\$1340	8%		
	IT	\$13,952	\$19,780	\$5828	42%		
RMIT	Arts	\$12,000	\$14,400	\$2400	20%	\$2400	17%
	App.Science	\$16,080	\$18,720	\$2640	16%		
	Business	\$13,200	\$15,360	\$2160	16%		
QUT	Law	\$12,000	\$17,000	\$5000	42%	\$5500	46%
	Business	\$12,000	\$18,000	\$6000	50%		
Curtin	Mech Engineering	\$14,400	\$18,600	\$4200	29%	\$2466.67	16%
	Business/Law	\$16,000	\$17,600	\$1600	10%		
	Accounting	\$16,000	\$17,600	\$1600	10%		
University of Adelaide	Arts	\$11,400	\$14,300	\$2900	25%	\$3233.33	25%
	Commerce	\$12,800	\$16,000	\$3200	25%		
	Psychology	\$14,400	\$18,000	\$3600	25%		
University of Tasmania	Arts	\$10,000	\$11,300	\$1300	13%	\$966.67	7%
	Business	\$12,000	\$12,300	\$300	2%		
	Pharmacy	\$16,500	\$17,800	\$1300	8%		
ANU	Asian Studies	\$12,000	\$18,000	\$6000	50%	\$3000	29%
	Commerce	same as international	Same as international	\$nil	0%		
	Political Science	\$13,200	\$18,000	\$4800	36%		
	Law	\$14,400	\$1,200	\$4800	33%		

