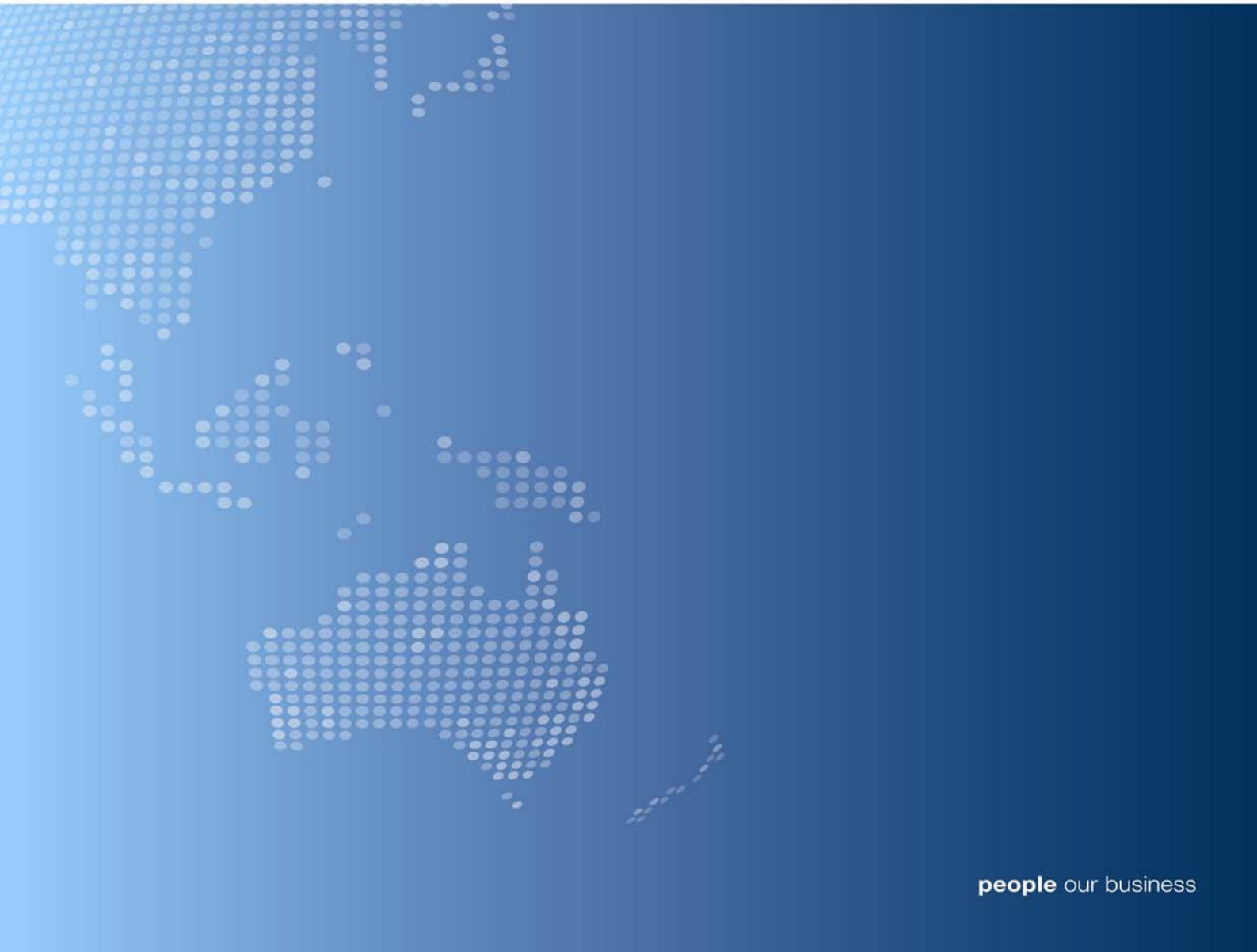
Australian Government

Department of Immigration and Citizenship

SUBMISSION TO THE SENATE

INQUIRY INTO THE WELFARE OF INTERNATIONAL STUDENTS

September 2009



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Abbreviations

ABS	Australian Bureau of Statistics
ACPET	Australian Council for Private Education and Training
AEI	Australian Education International
AUD	Australian dollar
AusAID	Australian Agency for International Development
Austrade	Australian Trade Commission
CLO	Community Liaison Officer
CRICOS	Commonwealth Register of Institutions
DAP	Diverse Australia Program
DEEWR	Department of Education, Employment and Workplace Relations
DFAT	Department of Foreign Affairs and Trade
DIAC	Department of Immigration and Citizenship
ELICOS	English Language Intensive Courses for Overseas Students
ENS	Employer Nomination Scheme
ESOS	Education Services for Overseas Students
eVisa	Electronic visa
GISC	Government Industry Stakeholder Consultations
GSM	General Skilled Migration
IELTS	International English Language Testing System
MARA	The Office of the Migration Agents Registration Authority
MODL	Migration Occupations in Demand List
MRT	Migration Review Tribunal
NOM	Net Overseas Migration
PRISMS	Provider Registration and International Students Management System
RSMS	Regional Sponsored Migration Scheme
VET	Vocational Education and Training
VEVO	Visa Entitlement Verification Online
VRQA	Victorian Registration and Qualifications Authority

Terms of Reference

On 17 June 2009 the Senate referred the following matters to the Senate Education, Employment and Workplace Relations Committee for inquiry and report.

(a) The roles and responsibilities of education providers, migration and education agents, state and federal governments, and relevant departments and embassies, in ensuring the quality and adequacy in information, advice, service delivery and support, with particular reference to:

(i) student safety,
(ii) adequate and affordable accommodation,
(iii) social inclusion,
(iv) student visa requirements,
(v) adequate international student supports and advocacy,
(vi) employment rights and protections from exploitation, and
(vii) appropriate pathways to permanency;

(b) the identification of quality benchmarks and controls for service, advice and support for international students studying at an Australian education institution; and

(c) any other related matters.

Context

The role of the Department of Immigration and Citizenship in relation to international students

Through its administration of the *Migration Act 1958* (the Act), the Department of Immigration and Citizenship (DIAC) is responsible for the entry of students to Australia. This is managed through the assessment of student visa applications. DIAC is also responsible for the compliance of student visa holders with their visa conditions.

DIAC's Portfolio Budget Statements for 2009-10 state that DIAC will contribute through "*ongoing assistance to the tourism and education industries to expand, including into new markets, whilst ensuring a high degree of immigration integrity.*"

Australia offers a range of student visas to enable genuine students to enter and study in Australia. Student visas types include:

- Subclass 570 Independent ELICOS Sector
- Subclass 571 Schools Sector
- Subclass 572 Vocational Education and Training Sector
- Subclass 573 Higher Education Sector
- Subclass 574 Postgraduate Research Sector
- Subclass 575 Non-Award Sector
- Subclass 576 AusAID or Defence Sector

In 2008-09, DIAC received 362,193 student visas applications. This figure represented growth of 20 per cent on the 2007-08 year and continued a trend of growth over the past five years (see Table 1 below). A more detailed discussion of the student visa program and more comprehensive statistics are provided later in this submission.

Table 1: Student Visa Applications – Top Ten Nationalities 2002/03-2008/09

Passport Held	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
India	10 541	14 649	15 881	25 004	38 949	53 916	79 160
China	31 255	31 426	31 247	36 487	42 927	54 050	61 481
Korea, Republic of	11 891	14 931	15 367	18 064	19 883	19 391	18 105
Nepal	867	768	933	1 658	7 185	10 102	17 818
Thailand	10 019	8 916	8 765	9 365	10 265	11 960	14 100
Brazil	3 065	3 641	4 726	7 099	8 773	11 065	13 123
Malaysia	10 607	9 579	8 907	8 856	9 958	10 711	11 867
Vietnam	2 291	2 436	2 450	3 243	4 434	8 018	11 148
USA	11 684	11 765	11 141	10 525	10 215	10 062	9 690
Indonesia	10 621	9 024	7 762	7 949	7 881	8 534	9 224
GLOBAL TOTAL	**184 673**	**188 785**	**187 420**	**213 053**	**255 264**	**302 190**	**362 193**

Interaction between the *Migration Act 1958* and the *Education Services for Overseas Students Act 2000*

The *Education Services for Overseas Students (ESOS) Act 2000* and its associated instruments set out the legal framework governing the delivery of education to international students in Australia on a student visa. The ESOS Act is administered by the Department of Education, Employment and Workplace Relations (DEEWR). The ESOS Framework is designed to protect Australia's reputation for delivering quality education services and the interests of overseas students, by setting minimum standards and providing tuition and financial assurance.

The Migration Act and the ESOS Act interact across a number of areas. These interactions serve to align the respective legislation so that each complements and supports the objectives of the other.

The Migration Act supports the ESOS Framework by generally only allowing the grant of student visas to applicants with a Confirmation of Enrolment issued by an education provider properly registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) through the process set out in the ESOS Framework. The very limited exceptions to this requirement involve visa applicants sponsored by AusAID or the Department of Defence, and students participating in a secondary school exchange program approved by the relevant State or Territory Education Department.

In turn, the ESOS Framework recognises the importance of maintaining integrity in the student visa program and the critical role of education providers in achieving this goal.

The ESOS Act, through its *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* (the ESOS National Code), sets out a range of standards that providers must meet before enrolling students. This establishes that education providers must take certain steps in recruiting students before issuing a confirmation of enrolment to a prospective student that would allow a visa to be granted.

The ESOS framework also requires that providers report students to DEEWR for a variety of reasons, such as when they change course, fail to attend class over a period, or fail to make course progress over a period. A systems link between DEEWR and DIAC allows for these reports to be transmitted to DIAC, providing a vital tool to support the integrity of the student visa program. These reports allow DIAC to determine if a student has breached the conditions of their visa and whether cancellation action is necessary.

DIAC's cooperation with DEEWR and State and Territory Authorities

DIAC works closely with Commonwealth and State and Territory authorities responsible for implementing the ESOS framework.

DIAC and DEEWR have signed a Memorandum of Understanding on electronic data exchange and system interoperability in regard to international education. DIAC and DEEWR also undertake regular liaison meetings in relation to policy aspects of immigration and international education.

DIAC participates in the International Quality Implementation Group, which includes DEEWR and State and Territory education authorities. In addition, DIAC liaises with DEEWR and State and Territory education authorities at an operational level on a regular basis.

DIAC and DEEWR also participate in a variety of forums on international student issues, including the Government Industry Stakeholder Consultations (GISC) which DIAC chairs jointly with DEEWR. The GISC meets every six months and provides an opportunity for direct stakeholder engagement with government, and information updates from DIAC and DEEWR.

In addition, through our respective overseas networks, DIAC and DEEWR work closely together in the international arena to implement the Government's polices and strategies in regard to the international student program.

Response

Part A

The roles and responsibilities of education providers, migration and education agents, state and federal governments, and relevant departments and embassies, in ensuring the quality and adequacy in information, advice, service delivery and support, with particular reference to:

(i) student safety,
(ii) adequate and affordable accommodation,
(iii) social inclusion,
(iv) student visa requirements,
(v) adequate international student supports and advocacy,
(vi) employment rights and protections from exploitation, and
(vii) appropriate pathways to permanency;

i) Student safety

DIAC supports efforts to ensure international students are safe in Australia. DIAC notes the efforts of police forces across Australia to address issues around the safety of international students and is willing to provide all possible assistance to police in resolving criminal matters.

DIAC encourages international students to report criminal activity to the police. Reporting a crime to the police has no adverse impact on an existing visa or on future visa applications.

Where incidents have occurred involving international students that require emergency travel for relatives overseas, DIAC has responded by facilitating visa applications from family members to enable them to travel to Australia as soon as possible.

From a broader policy perspective, DIAC administers diversity and community programs to build stronger community relations. These programs are detailed under section iii) *Social inclusion* (below).

ii) Adequate and affordable accommodation

DIAC supports efforts by education providers and local authorities to address accommodation issues for international students.

iii) Social inclusion – DIAC diversity and community programs

There are a range of community relations programs run by all levels of government in Australia, with many of these targeted at school children so citizens are being exposed to concepts of respect, fairness and belonging at an early age.

The Diverse Australia Program

The Diverse Australia Program (DAP) which is administered by DIAC is designed to provide the additional resources often needed by not-for-profit community organisations to develop their own projects and find their own ways of helping all Australians to build stronger community relations. The Government believes that strong social cohesion is best developed by projects that bring all Australians together and in particular create connections across the community.

The DAP is implemented through four key elements, including three funding schemes and a public information strategy, which involves Harmony Day annually on 21 March. Harmony Day celebrates the cohesive and inclusive nature of our nation and promotes the benefits of cultural diversity.

In the past, DIAC has funded a number of projects under the DAP, to help build strong relations between police and community groups, including dealing with the issue of racism directed at overseas students. Examples include projects by The University of Newcastle (2005) and Newcastle University Students Association (2007).

The DAP is consulting with groups, such as Australian Education International (AEI) in DEEWR, and peak bodies such as Universities Australia and the Australian Council for Private Education and Training (ACPET), to develop a national project that will engage international students with the broader Australian community. DIAC is negotiating with a tertiary education institution to be the lead agency in this project. In addition, on 2 June 2009 the Prime Minister announced funding for Darebin City Council to develop a project, funded through the DAP, that will work with international students, community groups, faith groups and businesses in Darebin to encourage the local community to interact with international students as valued members of the community.

Summary of action:

DIAC, in consultation with DEEWR and peak bodies, will develop a national project to engage international students with the broader Australian community.

DIAC's Community Liaison Officer Network

The Community Liaison Officer (CLO) network in DIAC is a national network, based in the Department's state and territory offices. It identifies key issues within and between Australia's diverse communities and facilitates productive two-way communication with the Government. The CLO network also helps to connect communities to government services. Through the CLO network, the Department maintains contact with over 6,000 community organisations and individuals.

Following the recent incidents of violence against Indian students, the CLO network has engaged with Indian community contacts, both Indian students and the broader Indian Australian community, to seek their responses to the safety issue. In general, Indian Australian community representatives contacted by DIAC are of the view that experiences of racism in the broader Indian community are uncommon, and that the attacks on Indian students have not been racially motivated.

Summary of action:

DIAC will continue to maintain regular engagement with the Indian Australian community on the safety of Indian students.

iv) Student visa requirements

The *Migration Regulations 1994* (the Regulations*)* sets out a range of requirements for visa applicants to meet in order to be granted a student visa. The framework for assessing student visa applications was established in 2001, with a number of amendments to the Regulations having been made since. Student visas are assessed against criteria set out under the Student (Temporary) visa class (Class TU) in Schedule 2 of the Regulations.

The student visa requirements aim to achieve a balance between facilitating the entry of genuine students and maintaining the integrity of the student visa program. The current student visa framework is designed to assist decision-makers make consistent and transparent decisions against largely objective criteria. It aims to use objective measures of risk to determine the evidence required to meet the objective criteria for visa grant and to achieve greater levels of integrity through better matching of resources to areas of risk.

In 2008-09, DIAC granted more than 320,000 student visas. There was strong growth in grants when compared to the previous year, continuing a trend of growth over the past five years (see Table 2).

Table 2: Student Visas Granted – Top Ten Nationalities 2002/03-2008/09

Passport Held	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
India	7 603	11 106	13 314	20 273	34 146	47 639	65 503
China	22 597	27 829	30 392	29 970	38 466	49 763	54 015
Korea, Republic of	11 270	14 375	14 775	16 917	18 557	19 350	17 594
Nepal	615	568	648	1 106	4 980	10 247	14 355
Thailand	9 418	8 519	8 151	8 835	9 479	11 576	13 612
Brazil	2 894	3 236	4 523	6 679	8 220	11 096	12 609
Malaysia	10 133	9 260	8 729	8 614	9 496	10 661	11 567
United States of America	11 294	11 461	11 050	10 382	9 973	9 969	9 598
Vietnam	1 851	2 107	2 101	2 843	3 845	6 878	9 389
Indonesia	10 136	8 613	7 509	7 572	7 534	8 246	8 756
GLOBAL TOTAL	**162 575**	**171 616**	**174786**	**190 674**	**228 592**	**278 184**	**320 368**

The Regulations set out the legislative requirements that applicants for a student visa must meet in order to be granted the visa. These requirements relate to a range of factors, including those common to most visa types such as health, character and security. Specific to the student visa requirements is the need for an enrolment with a CRICOS registered provider. This is the foundation for assessing a student visa application and builds on the ESOS National Code requirements that providers must meet before issuing an enrolment. In addition, the Regulations require an assessment of whether the decision-maker is "*satisfied that the applicant is a genuine applicant for entry and stay as a student*". The Regulations require that this determination is made in relation to:

- English language proficiency;
- Financial capacity;
- Other requirements such as academic qualifications and age; and
- An assessment of other relevant matters.

The evidence that is required to meet each of these requirements is set out in Schedule 5A of the Regulations. Further comment on the requirements that apply for English language proficiency and financial capacity are made below. It is important to note though that the evidence required to meet these requirements differs according to the Assessment Level of the applicant.

Assessment Levels

Assessment Levels serve as a risk management tool in the student visa program. Their purpose is to align visa requirements to the demonstrated risk of the visa applicant. This serves to support the integrity of the student visa program and to align visa requirements to clear, objective evidence of compliance rates. Assessment Level 1 represents the lowest immigration risk and Assessment Level 5 represents the highest immigration risk.

The higher the Assessment Level, the greater the immigration risk and the greater the amount of evidence required to meet the requirements considered when determining an applicant is a genuine applicant for entry and stay as a student. Attachment B provides a summary of the different requirements for evidence that apply across the different Assessment Levels.

Assessment Levels are assigned to groups of students based on nationality and education sector of study. The Assessment Level for each group is derived from the calculated immigration risk posed by students from that group applying to study or studying in that education sector.

Since 2001, Assessment Levels have been reviewed 8 times with changes to Assessment Levels made as a result of review outcomes. The review involves consideration of the outcome of every student visa applicant and student visa holder over the period.

Assessment Levels were changed as a result of the last review on 1 September 2008. The changes involved lowering Assessment Levels for 43 countries in one or more education sectors. These improvements streamlined visa requirements and processing timeframes for these applicants. Of these countries, 23 were identified as being low immigration risk in one or more education sectors and moved to Assessment Level 1.

Following the 2008 review, the Assessment Level was increased for nine countries in one or more education sectors to combat increased levels of immigration risk in several groups. These changes required higher risk applicants to submit more evidence as part of their visa application to support their claims that they are genuine students. Assessment Levels are generally only downgraded after consecutive reviews demonstrate a higher risk.

To avoid statistical distortions, groups that involve small numbers of students are not subject to the same statistically based Assessment Level analysis and are generally assessed at Assessment Level 3.

In making recommendations on Assessment Level changes, the Department consults with peak bodies in the international education sector, DEEWR and the Department of Foreign Affairs and Trade (DFAT) before submitting the outcomes to the Government for consideration.

The current Assessment Levels are at Attachment C. A list of changes made on 1 September 2008 is included as Attachment D. The next review is set to take place in 2010.

Summary of action:

DIAC intends to review Assessment Levels in 2010

English language proficiency

All student visa applicants must satisfy requirements relating to English language proficiency in order to be granted a student visa. The evidence that must be produced to meet this requirement differs according to the sector of study and the Assessment Level of the applicant.

At the lower risk end of the spectrum (Assessment Level 1 and 2), this requirement is considered to be met by presenting an enrolment from a CRICOS registered provider.

At the higher risk end of the spectrum (Assessment Level 3, 4 and 5 in the Vocational Education and Training (VET) and Higher Education visa subclasses), applicants must have achieved an acceptable score in an International English Language Testing System (IELTS) test sat prior to lodging their application. In limited circumstances, English proficiency requirements can be met through other means, such as other English tests, completion of an Australian qualification in English, or completion of five years study in an English speaking country.

The English language proficiency requirement is an integrity measure based on the premise that an applicant claiming an intention to study a course in English is more likely to be a genuine student if they have attained a level of English proficiency. It does not purport to be an assessment of whether a particular student's level of English is appropriate for a particular course. Under the ESOS National Code, this assessment is required to be made by education providers before they accept a student for enrolment.

DIAC is currently reassessing the English levels required for the grant of a student visa in some education sectors. This is in the context of changes in the English language levels made for the General Skilled Migration (GSM) program in the 2009-10 Budget. The changes were that the English language threshold for the non-sponsored independent skilled pathway for trades occupations was increased from IELTS 5 to IELTS 6. This change applied from 1 July 2009 for people applying for GSM offshore and will apply from 1 January 2010 for people applying for GSM onshore.

With some exceptions in rare circumstances, the only test currently accepted as evidence of English language proficiency under the student visa regulations is the IELTS test. DIAC has advertised for expressions of interest from the owners of other English tests that wish their tests to be recognised as acceptable tests under the provisions of the Regulations. DIAC will accept expressions of interest until 31 December 2009.

Summary of action:

DIAC is reassessing the English language proficiency levels required for the grant of a student visa in some education sectors.

DIAC is accepting expressions of interest from English language test owners who wish their tests be considered acceptable for the purposes of the Regulations

Financial capacity

Financial capacity is met by the provision of evidence to show that an applicant has access to funds to meet travel, tuition and living costs for the duration of their stay in Australia, as well as funds to support their partner and dependent children, even if they do not travel with the applicant to Australia.

As for English language proficiency, the Regulations specify that the evidence needed to meet financial capacity requirements differs according to the sector and Assessment Level of the applicant. All applicants must declare they have access to funds to support themselves in Australia for the duration of their proposed study. In addition:

- Assessment Level 2 applicants must provide evidence of sufficient funds for 12 months;
- Assessment Level 3 applicants must provide evidence of sufficient funds for 24 months;
- Assessment Level 4 applicants must provide evidence of sufficient funds for 36 months; and
- Assessment Level 5 applicants must provide evidence of sufficient funds for the duration of their proposed study.

In calculating sufficient funds, the Regulations define the ‘living costs’ component of the funds as being $12,000 AUD per year. Table 3 compares published student visa living costs requirements among competitor countries. When compared to published requirements of other large student receiving countries, Australia’s ‘living costs’ for visa purposes are towards the upper end of the range.

Table 3: Comparison of published Student Visa financial requirements – Living Costs equivalent

Country	AUD equivalent per annum (Visa requirement)
Australia	12 000
United Kingdom	14 406 (in London)/10 804 (outside London)
Canada	11 073
United States	N/a
New Zealand	8 008
France	10 272
Germany	13 025

*Figures from Government websites for each country

*Exchange rates as at 7 August 2009

DIAC intends to review the financial capacity requirements set out in the Regulations to consider whether they could be more effective in determining that an applicant genuinely has sufficient funds.

Summary of action:

DIAC intends to review financial capacity requirements for the grant of a student visa.

Assessment of 'other relevant matters'

In addition to these largely objective visa requirements, the Regulations also require that decision-makers consider "any other relevant matters" in determining if an applicant is a genuine applicant for entry and stay as a student.

Examples that may, under policy, be considered under the 'any other relevant matter' criterion include:

- the student's situation in their home country;
- the student's academic record;
- the student's links with Australia; and
- intention to overstay or remain in Australia by circumventing visa requirements.

Processing arrangements

The sheer volume of the student program, involving more than 362,000 applications in 2008-09, is a significant challenge for DIAC. Student visa applications are processed all over the world. DIAC accepts applications lodged through a paper application process and electronically through DIAC's eVisa system. The volume of applications received by mechanism and location is detailed in Table 4 below.

Table 4: Applications Received by Method of Lodgement and Location of Applicant 2002/03-2008/09

Location/ Lodgement	Program Year						
	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Offshore Paper	98 407	93 011	80 505	82 342	102 984	114 325	121 005
Offshore eVisa	29 075	35 497	43 883	63 077	81 815	107 718	140 787
Offshore total	**127 482**	**128 508**	**124 388**	**145 419**	**184 799**	**222 043**	**261 792**
Onshore Paper	54 669	55 805	52 013	40 229	37 744	47 757	53 038
Onshore eVisa	2 522	4 472	11 019	27 405	32 721	32 390	47 363
Onshore total	**57 191**	**60 277**	**63 032**	**67 634**	**70 465**	**80 147**	**100 401**
GRAND TOTAL	**184 673**	**188 785**	**187 420**	**213 053**	**255 264**	**302 190**	**362 193**

An eVisa application service is available to all student visa holders onshore in Australia. The service is also available to Assessment Level 1 applicants lodging from outside Australia. In addition, an eVisa service is available to applicants from China, India, Indonesia and Thailand lodging application through an agent with access to the eVisa system.

eVisa applications made from offshore are processed in Offshore Students Processing Centres established in Adelaide and Perth. These centres have the capacity to refer any application to any other DIAC office, including to posts overseas, for further checks.

The following tables include data on the take-up rates of eVisa.

Table 5: Offshore take-up rate for eVisa – AL1 applicants 2002/03-2008/09

Program Year	Total Applications	eVisa Applications	eVisa take-up rate (%)
2002-03	50 181	29 061	57.91
2003-04	48 362	35 497	73.40
2004-05	45 193	39 222	86.79
2005-06	46 214	41 510	89.82
2006-07	48 365	42 196	87.24
2007-08	52 363	42 883	81.90
2008-09	64 061	48 216	75.27

Table 6: Offshore take-up rate for eVisa – China, India, Indonesia and Thailand 2004/05-2008/09

Program Year	Total Applications	eVisa Applications	eVisa take-up rate (%)
2004-05 (Nov-June)*	24 992	4 383	17.54
2005-06	51 204	21 553	42.09
2006-07	71 807	39 366	54.82
2007-08	94 693	64 712	68.34
2008-09	119 722	91 592	76.50

*Commenced on 1 November 2004

Student Visa Conditions

Imposition of visa conditions can differ between student visa subclasses and are dependant on whether the visa holder is the primary visa holder (i.e. the student) or a dependent; whether they are under 18 years of age; and in some cases whether they are sponsored by the Australian Government or a Foreign Government. A detailed list of mandatory visa conditions attached to student visas is included at Attachment E. Discretionary conditions are listed at Attachment F.

A key student visa condition is condition 8202, which requires that student visa holders:

- maintain enrolment in a registered course;
- satisfy course progress requirements; and
- where the provider is required to monitor attendance, maintain satisfactory course attendance.

Visa conditions also impose work limitations on students. These work limitations are discussed further below, under section *(vi) Employment rights and protections from exploitation.*

Student visa compliance and cancellation procedures

Student visa compliance

Student visa compliance rates have remained low and generally improved since 2002, as Table 7 below demonstrates. It should be noted that this table uses the number of visas expiring in each year as the basis for determining a rate. If the number of visas in existence in each year was used, the rate would be even lower.

Table 7: Student visa compliance rates 2002/03-2008/09

Program Year	Visas Expiring	Total Unlawful	Unlawful Rate (%)	Total Cancellations	Cancellation Rate %
2002-03	215 849	1 833	0.85	8 204	3.80
2003-04	237 966	2 257	0.95	8 243	3.46
2004-05	250 233	1 514	0.60	6 095	2.44
2005-06	275 453	1 959	0.71	6 983	2.54
2006-07	297 014	3 933	1.32	6 443	2.17
2007-08	320 255	3 159	0.99	6 727	2.10
2008-09	359 839	1 858	0.52	8 761	2.43

Visa cancellation

It is a general principle under the *Migration Act 1958* (the Act) that if a person fails to comply with a condition of their visa, that visa is liable for cancellation (section 116(1)(b)).

In addition to this general discretionary cancellation power, the student visa program contains provisions that allow for both the automatic cancellation of student visas and for the mandatory cancellation of student visas. These mandatory and automatic cancellation powers apply to breaches of the condition that relates to study (condition 8202). Mandatory cancellation also applies to breaches of work conditions (conditions 8104 and 8105).

ESOS requirement that providers report students who are not studying

Under the ESOS National Code, the education provider is responsible for monitoring and recording students' course progress, and for implementing intervention strategies to assist students at risk of failing to achieve satisfactory course progress. Where applicable, education providers are also required to monitor students' attendance. Where a student has been found to fail to meet progress and/or attendance requirements, education providers must offer students access to internal and external appeals on this finding.

If, following the appeals process, a student is found to have failed to meet progress and/or attendance requirements, section 19 of the ESOS Act requires that providers report students to DEEWR through the Provider Registration and International Students Management System (PRISMS). The information is then passed to DIAC through an automated systems link from PRISMS to DIAC systems. Section 20 of the ESOS Act sets out the manner in which providers must report. The notice that is sent to the student informs them that their visa is liable for cancellation and that the student must report to DIAC within 28 days from the date of the notice to resolve their visa status.

Automatic cancellation

If a student fails to report to DIAC within the required period, their visa is automatically cancelled in accordance with section 137J of the Migration Act. In other words, their visa is cancelled through DIAC's computer systems as a reflection of the cancellation by operation of law.

The student may subsequently apply for revocation of the automatic visa cancellation (section 137K) and is entitled to seek merits review by the Migration Review Tribunal (MRT) of any decision not to revoke. Both the delegate for revocation and the MRT will consider any exceptional circumstances beyond the visa holder's control that led to the breach.

Mandatory cancellation

If the student does report to DIAC within the required period, the Regulations require that the delegate must cancel if a breach is found to have occurred, unless the non-compliance was due to exceptional circumstances beyond the visa holder's control.

The situation for breaches of work conditions is slightly different. Delegates have no discretion to take exceptional, compassionate or compelling circumstances into account where a student visa holder is found to have breached work conditions 8105 or 8104. For example, where a student may have only breached the 20 hour limit by one hour, the delegate would have no option but to decide to cancel.

In all cases, the student is entitled to seek MRT review of that decision. Judicial review of the MRT decision may also be open to the student.
A flow chart of the cancellation process which demonstrates the relevant responsibilities of the education providers and DIAC is at Attachment G.

Exclusion periods

International students who become unlawful in Australia or have their Student visa cancelled for a breach of a condition are usually subject to an exclusion period. Exclusion periods are given effect by Public Interest Criteria 4013 and 4014. These criteria apply to most new temporary visa applications and prevent visa grant unless the applicant has completed three years exclusion outside Australia or unless the delegate is satisfied that:

- there are compelling reasons in the interests of Australia; or
- there are compassionate and compelling circumstances in the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;

that justify granting the visa within three years.

Current policy guidelines on considering compassionate and/or compelling circumstances that may justify a waiver of the exclusion period use examples such as where Australia's trade or foreign government relations would be adversely affected were the visa not granted. Paying education fees or spending money in Australia are excluded from being considered compassionate and/or compelling circumstances.

DIAC acknowledges the need to manage the risk of abuse of the student visa program by maintaining an effective student visa cancellation regime. Without an effective regime, there are risks to both the integrity of the immigration program and to public support for international education.

DIAC strongly supports the requirement that providers report students who are not studying. This requirement underpins the integrity of the student visa program by ensuring that people on student visas are actually studying. It also supports the principal that education providers have a role in program integrity and that providers are best placed to make decisions about educational issues such as academic progress and course changes.

Under current legislation though, DIAC decision-makers have very limited discretion to do anything other than cancel the visa if a student is reported by their provider. This element of the cancellation regime gives education providers considerable leverage over students and places significant additional pressure on a decision about academic progress.

DIAC is open to considering other arrangements which will effectively support the integrity of the student visa program, noting that changes to the visa cancellation regime would require changes to the legislation and resourcing arrangements that support the current model.

Given that the student visa cancellation regime is closely linked with provisions in the ESOS Act, the review of ESOS would be the appropriate time for DIAC to review the student visa cancellation processes.

Integrity concerns

All student visa applicants need to address specific requirements in order to be granted a student visa. As part of this process, the Department routinely seeks further information to verify the evidence which has been provided with these visa applications. While the compliance results for the student visa program as a whole are reasonable, integrity concerns do exist within particular parts of the program. DIAC constantly monitors the student visa program and adjusts processing approaches to address indications of malpractice or fraud. Officers are detecting increased levels of fraud, often organised by agents selling the false promise of a guaranteed migration outcome in various locations around the world.

The Department already takes a range of measures to address integrity concerns, including increasing the rate of interviews undertaken, detailed profiling of caseloads of concern and forensic checking of claims made by visa applicants.

On 20 August 2009, the Minister for Immigration and Citizenship, Senator Chris Evans, announced a number of targeted measures to strengthen checking of high-risk student visa applications. The measures will target parts of the student visa caseload in India, Mauritius, Nepal, Brazil, Zimbabwe and Pakistan.

These measures will address specific concerns within the student case load relating to document fraud and financial capacity, as well as assisting to identify genuine student applicants. The measures have been implemented immediately and have included increasing interviews of student visa applicants and tightening controls over education and migration agents with access to the electronic lodgement facility.

The above measures are designed to make sure that it is genuine students who are receiving visas and to improve the sustainability and integrity of the education industry over the long term. The measures are part of the Department's ongoing response to changes in risk in visa programs and will build on work already conducted across the student visa program to combat fraud as it emerges.

Summary of action:
In the context of the ESOS Review, DIAC will review the existing student visa cancellation regime.

On 20 August 2009, the Minister announced a range of targeted measures to strengthen checking in some parts of the student visa caseload. DIAC will continue to adapt operational processes to address integrity concerns as they emerge in the student visa program including increasing the rate of interviews undertaken, detailed profiling of caseloads of concern and forensic checking of claim.

v) Adequate international student support and advocacy

DIAC engages with a wide range of groups and individuals who seek to represent international students. DIAC also engages with large numbers of individual students in the course of transacting visa applications. This engagement includes outreach programs that involve DIAC staff travelling to large providers to present visa information and services to students and to answer questions from visa holders.

DIAC would support measures taken by providers and others to ensure improved international student support and advocacy. DIAC is willing to work with organisations that genuinely represent students to provide accurate information about visa applications and visa conditions.

vi) Employment rights and protection from exploitation

Permission to work

Under the Regulations, work is defined as 'an activity that, in Australia, normally attracts remuneration.'

Student visas include a visa condition (condition 8105) that allows visa holders to work for up to 20 hours per week while their course is in session and for unlimited hours during course breaks. Dependents of student visa holders are subject to a visa condition (condition 8104) that limits them to 20 hours work per week at any time, unless they are the dependents of student visa holders who are studying a postgraduate course, in which case they have no limitation on their work rights.

All student visa work conditions require that work rights only apply after the commencement of the course of study for which the primary visa holder was granted a visa.

The work limitation does not include work that is a registered component of the student's course of study or training for the award to be obtained.

Under policy, the work limitation does not include volunteer work. Work is considered to be volunteer work if:

- their main purpose is to study in Australia and any voluntary work remains incidental to this;
- the work involved would not otherwise be undertaken by an Australian resident; and
- the work is genuinely voluntary for a non profit organisation and that no remuneration is received in return for the activities.

The limitation imposed by the visa conditions relating to work reflect the fact that the purpose of a student visa is to allow entry to Australia in order to study, not to work.

While the main purpose of the visa remains study, the limited work rights allowed on a student visa recognise that both Australia and students benefit from work rights. Work provides students with an opportunity to interact with the local community, improve language and develop professional skills. Permission to work is intended to enhance the student experience by participating in the workforce and is not intended to be relied on by the student to pay fees and living expenses. Students must demonstrate that they meet the financial capacity requirements for the grant of a student visa and cannot rely on an assumed income from work in Australia to assist them to meet these requirements.

In addition, work rights for overseas students are a significant measure to maintain the international competitiveness of the Australian international education industry. All other major English speaking countries that receive large numbers of international students provide for some form of work rights to holders of student visas. Further, the employers of overseas students also benefit from a diverse workforce and a broadening of business opportunities.

Australia's work right provisions for international students are broadly comparable to other competitor countries and in some cases are more generous. A comparison of work rights is included below in Table 8.

Table 8: Work Rights for Student Visas - Comparison Countries

Australia	Students can work up to 20 hours a week while course is in session (excluding any work undertaken as a registered part of their course of study or training). They can work unlimited hours during scheduled course breaks.
Canada	20 hrs a week on campus without a work permit. To work off campus, students require a work permit, which allows them to work up to 20 hours per week during regular academic sessions, and full time during scheduled breaks for example, winter and summer holidays, and spring break.
New Zealand	There are limited situations where students are able to work without a work permit. Generally, students must apply for a variation of conditions to be given work rights. If granted, students are allowed to work up to 20 hours a week during academic year, and full time during Christmas and New Year holiday period.
United Kingdom	Students can do work placements provided it is an assessed part of their course. Other employment is restricted to part-time work during term time of not more than 20 hours per week and full-time work during vacations.
United States of America	Work is permitted only in certain situations. On-campus employment provided by the school is generally, allowed although employment may not exceed 20 hours a week while school is in session. Students may be allowed to work full-time during vacations and when the school is not in session.

* These comparisons are made from published materials

DIAC holds concerns that an increase in work rights on student visas would increase the pressure on the integrity of the student visa program. The purpose of a student visa is to allow students to study in Australia. The greater the work component allowed on a student visa, the more likelihood there is that individuals whose main intention is to work in Australia will be attracted to using the student visa thereby circumventing assessment for an appropriate work visa. In addition, community support for international students may be affected if they are perceived to be competing directly for jobs with Australians, rather than studying.

As a result of these concerns and in recognition of the fact that Australia's work rights for international students are already as generous or more generous than competitor countries, DIAC would not support an increase in the number of working hours for students while their course is in session.

vii) Appropriate pathways to permanency

The student visa allows a temporary stay for the purposes of study. Under current arrangements, Student visa holders may be eligible to apply for a range of further visas, depending on their personal circumstances and the eligibility criteria of the visa that they seek.

The Skill Stream of Australia's Migration Program

The growth in the number of Student visa holders (see Table 9 below) has increased the flow of applicants for permanent skilled migration. The Skill Stream of Australia's Migration Program is aimed at supplementing the highly skilled end of the Australian labour market. It is driven by the dual imperatives of meeting labour market demand for skilled workers and addressing the demographic challenge of a decline in the rate of growth of the Australian labour force.

The Skill Stream is comprised of a number of major categories including the Employer Nomination Scheme (ENS), Regional Sponsored Migration Scheme (RSMS), Labour Agreements and GSM. While students are eligible to apply for any of the sponsored skilled migration categories, the majority of student visa holders who apply for permanent residence do so via the Independent sub-category within GSM.

By definition, this group of permanent visa applicants do not have an employer to sponsor them into a job and thus they must be able to successfully compete in the labour market with Australians and other migrants in order to find skilled employment. Research, based on data obtained from the third Longitudinal Survey of Immigrants to Australia, undertaken in 2005-06 as part of the *Evaluation of the GSM Categories*, indicates that although some 83 per cent were employed six months after the grant of their permanent GSM visa, only 46 per cent indicated that they were often using the skills and qualifications for which they had been selected for migration.

All applicants for GSM visas are selected on the basis of meeting the designated pass mark under the Points Test. The Points Test weighs applicants' suitability based on a set of criteria including age, English language proficiency, occupation and work experience. The Migration Occupations in Demand List (MODL) lists those occupations and specialisations identified by the Department of Education, Employment and Workplace Relations (DEEWR) that are in short supply. Applicants for GSM visas are allocated extra points if their nominated occupation is on the MODL and they have a prescribed minimum amount of relevant skilled work experience.

Since 2001 overseas students have been permitted to apply for permanent residence while onshore, within six months of completion of their course. To do so they are required to satisfy broad threshold eligibility criteria including meeting:

- the Australian study requirement (successful completion of a course or courses in Australia registered on the Commonwealth Register of Institutions and Courses for Overseas Students for a minimum of 92 weeks and which result in the award of a Degree (or higher), Diploma or Trade qualification); and
- the prescribed English language standard.

Over time a perception has developed that a Student visa can provide an *automatic* pathway to permanent residence. This is despite the fact that Departmental information, including on the Student visa application form, makes it clear that separate and distinct processes are involved and that the requirements for permanent residence visas change from time to time in response to the requirements of the labour market.

Once a visa application is validly lodged, Migration legislation places an obligation on the Government to process it to finalisation. Provided applicants meet the criteria specified in the Regulations, they must be granted a visa.

Recent Trends

Until recently, the migration program has been in a long term growth mode, and the current policy settings and legislative framework have developed over time to meet this need. With the onset of the global economic crisis, the Government has acted to better target the program to deliver the skills demanded by the labour market.

Impact of former students on skilled migration

Table 9 below details the number of visa applications for skilled migration lodged in Australia over the period 2006 to 2009.

Table 9: Lodgements of primary onshore applications 2006-07 to 2008-09

Lodgements primary onshore applications	2006/2007	2007/2008	2008/2009
Employer Sponsored		468	597
Skilled Australian Sponsored	2 863	3 203	6 342
Skilled Independent	22 087	14 996	10 811
Skilled Graduate (Temporary visa)		12 386	23 829
State/Territory Sponsored Visa Classes	414	652	4 129
Grand Total	**25 364**	**31 705**	**45 708**

This increase in visa application lodgements should be seen against the background of a smaller migration program for 2009-10. In addition, since September 2007, former international students are able to apply for an 18 month temporary Skilled – Graduate (Subclass 485) visa. This visa provides them with the opportunity to improve their English language proficiency, gain skilled work experience or complete a designated Professional Year. Each of these courses of action attracts additional points under the GSM Points Test.

The provision of a post-graduate temporary 'work visa' allows Australia to maintain competitiveness with other countries who host significant foreign student populations, most of whom offer a similar visa for international students after they graduate.

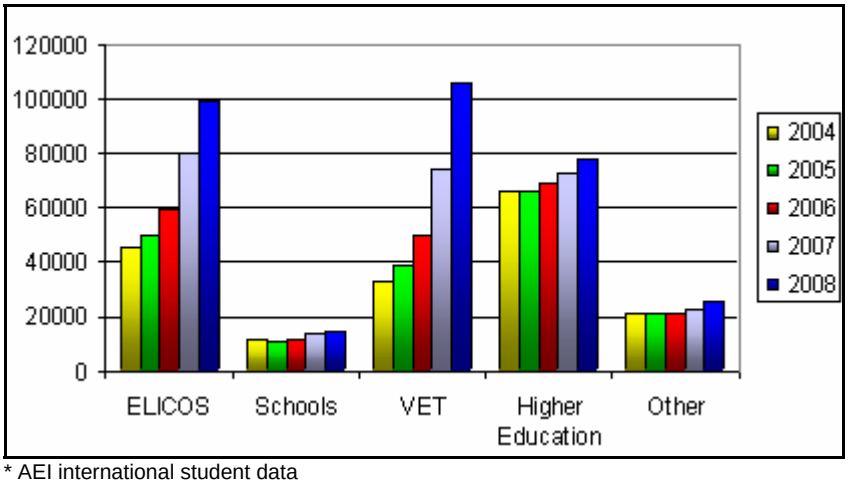
Historically, most former student visa holders who apply for permanent residence have done so via the Independent stream. The introduction of the subclass 485 visa, coupled with changes to the Points Test for permanent GSM visas in September 2007, has had the effect of diverting the bulk of the flow of students to GSM should through the subclass 485 visa. When considering the impact of the flow of students on Independent-Skilled migration therefore, both of these flows need to be considered.

As Table 9 indicates, only a small proportion of former international students are sponsored by Australian employers for permanent residence. Ongoing feedback from employers supports the findings of the *Evaluation of the GSM Categories* that the two main inhibitors to former students accessing this pathway are their level of English language ability and their lack of relevant work experience.

Impacts of skilled migration on student visa applications

Despite the fact there is no guarantee of permanent residence, it is apparent that many students base their decision to study in Australia upon the prospect of gaining permanent residence. A 2007 survey of overseas students conducted by DEEWR indicated that some 63 per cent wanted to apply for permanent residence if the opportunity presented itself. The Department's view is that the significant growth in enrolments in VET sector courses (which tend to be shorter and cheaper than those offered in the Higher Education sector, yet potentially yield the same permanent migration outcome) over the past few years also supports this conclusion. Enrolments in VET courses more than tripled in the period 2004 to 2008, with more than 175,000 enrolments in 2008. In the same period enrolments in all sectors grew by only 67% as is shown in Chart 1 below.

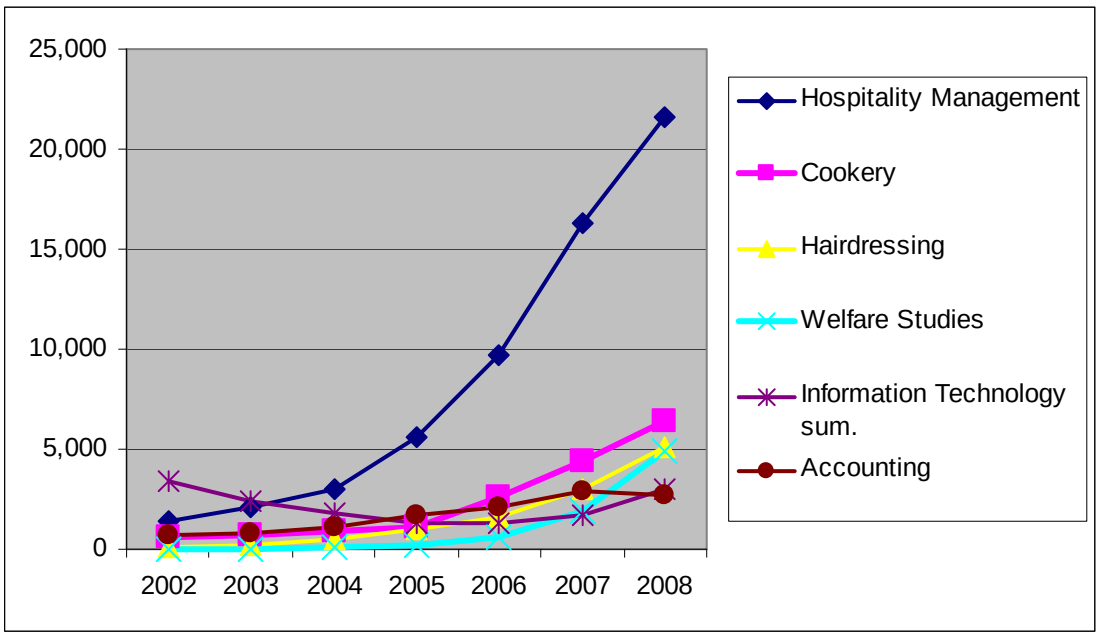
Chart 1: Growth in international student commencements 2004-2008



* AEI international student data

Chart 2 below presents a starker picture of the impact that a perceived route to permanent residence has had on course selection. Most noteworthy is the fact that almost all of these fields of study support occupations which are not in critical shortage.

Chart 2: Commencements Growth - selected courses of study 2002-2008



* DEEWR enrolment data

Feedback received from Government officials and other stakeholders in major source countries such as India, indicates that many overseas students have unreasonable expectations about the value of the course they are studying and their prospects of permanent residence. This is largely attributed to the questionable practices of some private education providers and their agents who exaggerate the importance of the courses they are offering and use permanent residence as a marketing tool. It is further alleged that many students have financially over-committed themselves and their families to study courses in Australia resulting in qualifications which are not in demand. The result is a rising level of discontent among certain groups of students.

Impacts of the growth in students on Net Overseas Migration

Net Overseas Migration (NOM) is the difference between the number of people arriving in Australia (temporarily or permanently) for a period of 12 months or more and those leaving Australia for similar timeframes. NOM calculations are published quarterly by the Australian Bureau of Statistics.

Modelling done for the Department by Professor Peter McDonald at the Australian National University, suggests that Australia's optimal range for NOM through to 2050 is between 150,000 and 230,000. The most recent NOM published by the ABS for the March 2009 quarter shows NOM running at an historically high figure of around 260,000. By far the largest group impacting on this growth is international students.

Recent changes

The Government has taken a decision to more tightly target the Skill Stream of the Migration Program to the needs of business and industry. This has resulted in the introduction of the Critical Skills List and the issuing of a Ministerial direction on priority processing on 1 January 2009 which gives priority to those applicants sponsored by employers or nominated by State or Territory governments. Employer and State sponsored visas are granted on a virtually demand-driven basis within the overall ceiling set by Government. This has ensured that where there are skills shortages in the economy, the Skilled Migration Program is better able to meet these needs.

In addition, the global economic crisis has slowed the growth in the labour market in Australia and led the Government to reduce the size of the migration program for 2009-10 back to 2007-08 levels. These measures have expanded the pipeline of applications which do not meet current priorities, but which, prima facie, meet the current requirements to be granted a visa. A large and growing proportion of these applications are from former international students.

Pipeline Issues

A number of issues will arise due to the increasing pipeline of applications from people who do not receive processing priority because their qualifications or work experience are in occupations that are not in critical demand. The legislative framework and current skilled migrant selection model work well in an environment of high demand for labour but lack the flexibility and responsiveness when rapid and/or highly targeted changes to the size and composition of the Migration Program are required.

Those applicants who apply for permanent residence while in Australia are granted bridging visas which allowing them to remain and work while their applications are processed. An increase in the number of onshore applications coupled with a reduction in places in the Skilled Stream is increasing the number of people in Australia on bridging visas.

Visa applications placed in a pipeline represent a significant cost to applicants and generate expectations which are difficult to meet when priorities in the program change. Pipelines are costly to maintain. They also impede the Government's ability to quickly change visa eligibility requirements in response to new economic challenges and changes in the composition of the demand for skilled workers.

The Department's view is that the Independent sub-category can be better targeted in terms of the occupational profile of applicants, to complement the output from the domestic education and training system. The selection mechanism for skilled migrants needs to be able to support this objective through both expansion and contraction phases of the business cycle. This objective is not supported by the current model which is driven by the number, skill profile and expectations of people in the visa application pipeline.

Upcoming Changes to the Skilled Stream

The Government has agreed to a review of the purpose of the MODL and its underlying research methodology. In conjunction with the points test, it is arguable that the MODL should be used as a mechanism to target visa applicants with high value qualifications and experience which address medium to long term skill needs.

Reflecting the importance of English language as a factor in achieving successful labour market outcomes for migrants, the Government has increased the minimum English language requirements for people nominating a 'trade' occupation. The increase was introduced for offshore GSM applicants on 1 July 2009, and will apply to onshore GSM applicants, including subclass 485 applicants, from 1 January 2010.

A JobReady test for onshore GSM applicants nominating trade occupations will be introduced on 1 January 2010. The JobReady test will complement testing arrangements already in place for offshore applicants in some trades, ensuring the applicants have the skills claimed. Depending on the targeting and scope of this measure, it is likely to have a moderate to significant impact on the number of former students with VET qualifications applying directly for GSM. Introduction of the JobReady test at the permanent residence stage is expected to increase the number of people who apply for the temporary subclass 485 visa.

Summary of action:

Increases in English language requirements for onshore GSM visa applicants and the introduction of the JobReady test will take effect from 1 January 2010.

The role of, and research methodology which underpins the MODL, is under review.

Part B

The identification of quality benchmarks and controls for service, advice and support for international students studying at an Australian education institution.

DIAC supports the efforts of agencies and providers responsible for the delivery of international education to identify quality benchmarks and controls for the service provided to international students.

Part C

Other related matters:

Education and Migration Agents – registration and monitoring

There has been recent debate about the role of agents in the process of recruiting and advising international students. In discussing agents, a distinction should be drawn between education agents and migration agents. It should be noted that persons may operate as either a migration or education agent or as both.

Migration Agents

The Migration Act includes provisions that specify that in Australia, only certain people can provide immigration assistance to people who want to enter or stay in Australia. Only migration agents registered with the Office of the Migration Agents Registration Authority (MARA) can provide immigration assistance for a fee. It is a criminal offence for an unregistered person in Australia to provide immigration assistance. Penalties of up to 10 years jail can apply.

Prior to 1 July 2009, the MARA function was administered by the Migration Institute of Australia under a Deed of Agreement with the Commonwealth. Following the *2007-08 Review of Statutory Self-Regulation of the Migration Advice Profession*, the Office of the MARA was established and commenced operations on 1 July 2009.

The new Office of the MARA has increased the number of Professional Standards Officers who investigate complaints about, and conduct audits on, Registered Migration Agents since it was established in July 2009.

DIAC investigates matters that relate to breaches of the Migration Act, including the provision of immigration assistance by unregistered persons in Australia. DIAC has received a number of allegations and have correlated these to identify agents for investigation in relation to the supply of fraudulent documents and general fraud against the *Migration Act 1958*. A number of persons identified are currently being investigated in relation to breaches against the *Migration Act 1958* or the *Citizenship Act 1948*.

Immigration advice provided outside Australia is not subject to the provisions of the Migration Act. Only some countries have their own regulatory regimes that cover the conduct of agents.

Education Agents

Unlike, Migration agents, education agents are not subject to a regulation or registration process in Australia.

Under the ESOS Framework, education providers are held to account for the conduct of education agents. DIAC has strong concerns about the action of some education agents and acknowledges the need for Governments to be able to more effectively monitor and sanction education agents who do not represent the best of interests of consumers.

Outside Australia, DIAC has no direct legislative power to regulate education agents. Through the eVisa model that operates in India, China, Thailand and Indonesia, DIAC can influence the conduct of agents through the provision of access to the eVisa application lodgement platform. Agents must sign a Facilities Access Agreement in order to gain access to the eVisa model. The Facilities Access Agreement requires that agents maintain a certain standard of conduct in order to retain access to the eVisa lodgement model. The removal of access, either temporarily or permanently, is the only sanction that DIAC can apply to eVisa agents. Nevertheless, this mechanism can be used to promote agents that meet the professional standards that Australia seeks from education agents.

Summary of action:

DIAC is reviewing the operation of the eVisa scheme for agents to use access to promote professional conduct.

DIAC continues to reform the Migration Agents Scheme in Australia, with a view to considering whether education agents should be incorporated into the scheme.

Education Providers

DIAC shares the concerns of other Commonwealth and State and Territory agencies regarding the actions of some education providers in regard to their obligations under the ESOS Act.

While these issues are not directly related to the Migration Act, and therefore do not fall directly within the DIAC portfolio, the impact of quality issues in international education and ESOS compliance has direct links to the student visa program and a flow on effect for the GSM Program.

DIAC supports efforts to address concerns about the quality of education providers. As an example, DIAC investigators in Victoria have been working with Victorian Registration and Qualifications Authority and DEEWR to conduct rapid audits of education providers in Victoria. DIAC also supports efforts to prevent education providers from enrolling more students than they are registered to enrol.

Summary of action:

DIAC would support further rapid audits by State and Territory authorities, such as those conducted recently in Victoria.

DIAC supports the review of the ESOS Act and will cooperate closely with DEEWR in this work.

DIAC supports efforts to limit enrolments to the number of students providers are registered to enrol.

Sources of student visa information for prospective students

Information on studying in Australia is available from a number of different sources. DIAC provides information about visa requirements, visa conditions and the obligations and entitlements of visa holders.

Information on studying and living in Australia is available at the DEEWR website, www.studyinaustralia.gov.au . This information focuses on course selection, accommodation, life and study in Australia and includes basic information on the student visa process and links to the DIAC website.

DIAC has also introduced the Visa Wizard as part of its website.
The Visa Wizard allows visa applicants to select the most appropriate visa for their circumstances. This innovation has been well received by clients who can obtain information on what specifically is required to meet the criteria for the grant of a student visa.

Since January 2009, this service has regularly received over 250,000 hits per month. The Visa Wizard and the Citizenship Wizard won first prize at the 2009 Excellence in e-Government Awards.

In addition to the DIAC website, www.immi.gov.au, information on student visas can be obtained from DIAC offices in Australia and overseas. In a number of overseas locations, DIAC has Service Delivery Partners who provide this information on DIAC's behalf.

Also overseas, DIAC works with organisations such as AEI, Austrade and education providers to deliver student visa information to prospective students and education and migration agents.

Students also obtain information from various third parties. The provision of information to third parties is regulated only in limited situations:

- Where the third party providing information is a Registered Migration Agent, the agent is subject to a Code of Conduct. Under the Code of Conduct - Standards of Professional Conduct, the agent must have a sound working knowledge of relevant legislation and a capacity to provide accurate and timely advice, is required to be frank with a client about the chances of success with a visa application and must not represent that they can procure a particular decision for a client under the Migration Act or Regulations.

- Where the third party is an education agent, The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 requires education providers to take all reasonable measures to use education agents that have an appropriate knowledge and understanding of the Australian international education industry and not use agents who are dishonest or lack integrity. AEI works with an Australian registered training organisation to develop online training for education agents.

In addition, some countries have their own legislation that regulates the activity of migration and/or education agent industries in their own nation.

The provision of accurate information to students and prospective students is critical in making sure students have realistic expectations of their studies in Australia. DIAC has very strong concerns about the information being provided by agents overseas. DIAC is committed to working with DEEWR to strengthen the provision of correct information to prospective students to enable them to make well-informed decisions about their education in Australia and their future.

Sources of information for students already studying in Australia

Information for students studying in Australia is available from a number of DIAC sources including the website www.immi.gov.au, and DIAC offices. DIAC is active in meeting with community groups to better inform students of information relevant to visa applications, visa conditions and the rights and obligations of visa holders.

DIAC also provides a Visa Entitlement Verification Online (VEVO) service for all visa holders. This service allows visa holders to confirm their visa status and relevant visa conditions over the internet. For approved employers, it also allows confirmation of the work rights of potential employees.

DIAC conducts student outreach programs in major centres to provide information on visa applications and visa conditions. These programs involve visits to large educational institutions by DIAC staff. In some cases, providers make available computer labs to allow DIAC staff to be present while students lodge visa applications using the eVisa system.

Summary of action:

DIAC supports an international student engagement strategy being developed by relevant agencies.

DIAC supports the review of information provided to students and will work closely with other agencies and relevant bodies to ensure that students have adequate information on visa requirements and visa conditions.

ATTACHMENT A

SUMMARY OF STATISTICS PROVIDED IN SUBMISSION

Table 1: Student Visa Applications – Top Ten Nationalities 2002/03-2008/09

Passport Held	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
India	10 541	14 649	15 881	25 004	38 949	53 916	79 160
China	31 255	31 426	31 247	36 487	42 927	54 050	61 481
Korea, Republic of	11 891	14 931	15 367	18 064	19 883	19 391	18 105
Nepal	867	768	933	1 658	7 185	10 102	17 818
Thailand	10 019	8 916	8 765	9 365	10 265	11 960	14 100
Brazil	3 065	3 641	4 726	7 099	8 773	11 065	13 123
Malaysia	10 607	9 579	8 907	8 856	9 958	10 711	11 867
Vietnam	2 291	2 436	2 450	3 243	4 434	8 018	11 148
United States of America	11 684	11 765	11 141	10 525	10 215	10 062	9 690
Indonesia	10 621	9 024	7 762	7 949	7 881	8 534	9 224
GLOBAL TOTAL	**184 673**	**188 785**	**187 420**	**213 053**	**255 264**	**302 190**	**362 193**

Table 2: Student Visas Granted – Top Ten Nationalities 2002/03-2008/09

Passport Held	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
India	7 603	11 106	13 314	20 273	34 146	47 639	65 503
China	22 597	27 829	30 392	29 970	38 466	49 763	54 015
Korea, Republic of	11 270	14 375	14 775	16 917	18 557	19 350	17 594
Nepal	615	568	648	1 106	4 980	10 247	14 355
Thailand	9 418	8 519	8 151	8 835	9 479	11 576	13 612
Brazil	2 894	3 236	4 523	6 679	8 220	11 096	12 609
Malaysia	10 133	9 260	8 729	8 614	9 496	10 661	11 567
United States of America	11 294	11 461	11 050	10 382	9 973	9 969	9 598
Vietnam	1 851	2 107	2 101	2 843	3 845	6 878	9 389
Indonesia	10 136	8 613	7 509	7 572	7 534	8 246	8 756
GLOBAL TOTAL	**162 575**	**171 616**	**174786**	**190 674**	**228 592**	**278 184**	**320 368**

SUMMARY OF STATISTICS PROVIDED IN SUBMISSION continued

Table 3: Comparison of published Student Visa financial requirements – Living Costs equivalent

Country	AUD equivalent per annum (Visa requirement)
Australia	12 000
United Kingdom	14 406 (in London)/10 804 (outside London)
Canada	11 073
United States	N/a
New Zealand	8 008
France	10 272
Germany	13 025

*Figures from Government websites for each country

*Exchange rates as at 7 August 2009

Table 4: Applications Received by Method of Lodgement and Location of Applicant 2002/03-2008/09

Location/ Lodgement	Program Year						
	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Offshore Paper	98 407	93 011	80 505	82 342	102 984	114 325	121 005
Offshore eVisa	29 075	35 497	43 883	63 077	81 815	107 718	140 787
Offshore total	**127 482**	**128 508**	**124 388**	**145 419**	**184 799**	**222 043**	**261 792**
Onshore Paper	54 669	55 805	52 013	40 229	37 744	47 757	53 038
Onshore eVisa	2 522	4 472	11 019	27 405	32 721	32 390	47 363
Onshore total	**57 191**	**60 277**	**63 032**	**67 634**	**70 465**	**80 147**	**100 401**
GRAND TOTAL	**184 673**	**188 785**	**187 420**	**213 053**	**255 264**	**302 190**	**362 193**

Table 5: Offshore take-up rate for eVisa – AL1 applicants 2002/03-2008/09

Program Year	Total Applications	eVisa Applications	eVisa take-up Rate (%)
2002-03	50 181	29 061	57.91
2003-04	48 362	35 497	73.40
2004-05	45 193	39 222	86.79
2005-06	46 214	41 510	89.82
2006-07	48 365	42 196	87.24
2007-08	52 363	42 883	81.90
2008-09	64 061	48 216	75.27

SUMMARY OF STATISTICS PROVIDED IN SUBMISSION continued

Table 6: Offshore take-up rate for eVisa – China, India, Indonesia and Thailand 2003/04-2008/09

Program Year	Total Applications	eVisa Applications	eVisa take-up Rate (%)
2004-05 (Nov-June)*	24 992	4 383	17.54
2005-06	51 204	21 553	42.09
2006-07	71 807	39 366	54.82
2007-08	94 693	64 712	68.34
2008-09	119 722	91 592	76.50

*Commenced on 1 November 2004

Table 7: Student visa compliance rates 2002/03-2008/09

Program Year	Visas Expiring	Total Unlawful	Unlawful Rate (%)	Total cancellations	Cancellation Rate %
2002-03	215 849	1 833	0.85	8 204	3.80
2003-04	237 966	2 257	0.95	8 243	3.46
2004-05	250 233	1 514	0.60	6 095	2.44
2005-06	275 453	1 959	0.71	6 983	2.54
2006-07	297 014	3 933	1.32	6 443	2.17
2007-08	320 255	3 159	0.99	6 727	2.10
2008-09	359 839	1 858	0.52	8 761	2.43

Table 8: Work Rights for Student Visas - Comparison Countries

Australia	Students can work up to 20 hours a week while course is in session (excluding any work undertaken as a registered part of their course of study or training). They can work unlimited hours during scheduled course breaks.
Canada	20 hrs a week on campus without a work permit. To work off campus, students require a work permit, which allows them to work up to 20 hours per week during regular academic sessions, and full time during scheduled breaks for example, winter and summer holidays, and spring break.
New Zealand	There are limited situations where students are able to work without a work permit. Generally, students must apply for a variation of conditions to be given work rights. If granted, students are allowed to work up to 20 hours a week during academic year, and full time during Christmas and New Year holiday period.
United Kingdom	Students can do work placements provided it is an assessed part of their course. Other employment is restricted to part-time work during term time of not more than 20 hours per week and full-time work during vacations.
United States of America	Work is permitted only in certain situations. On-campus employment provided by the school is generally, allowed although employment may not exceed 20 hours a week while school is in session. Students may be allowed to work full-time during vacations and when the school is not in session.

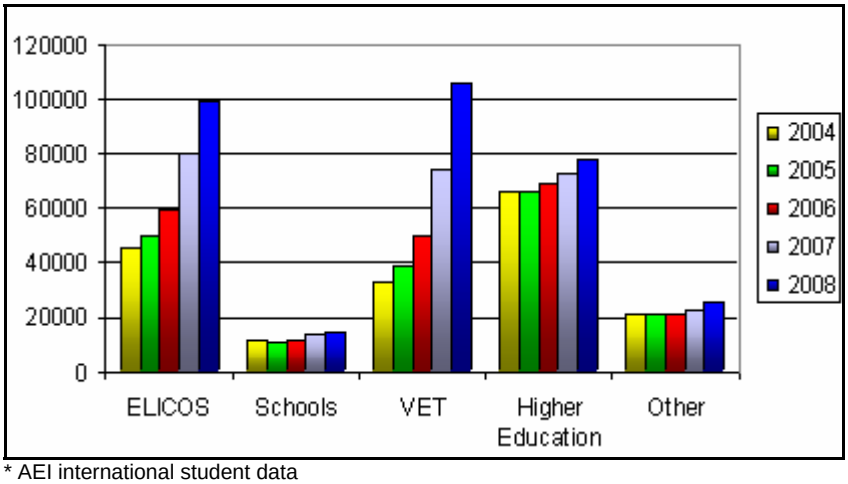
* These comparisons are made from published materials

SUMMARY OF STATISTICS PROVIDED IN SUBMISSION continued

Table 9: Lodgements of primary onshore applications 2006-07 to 2008-09

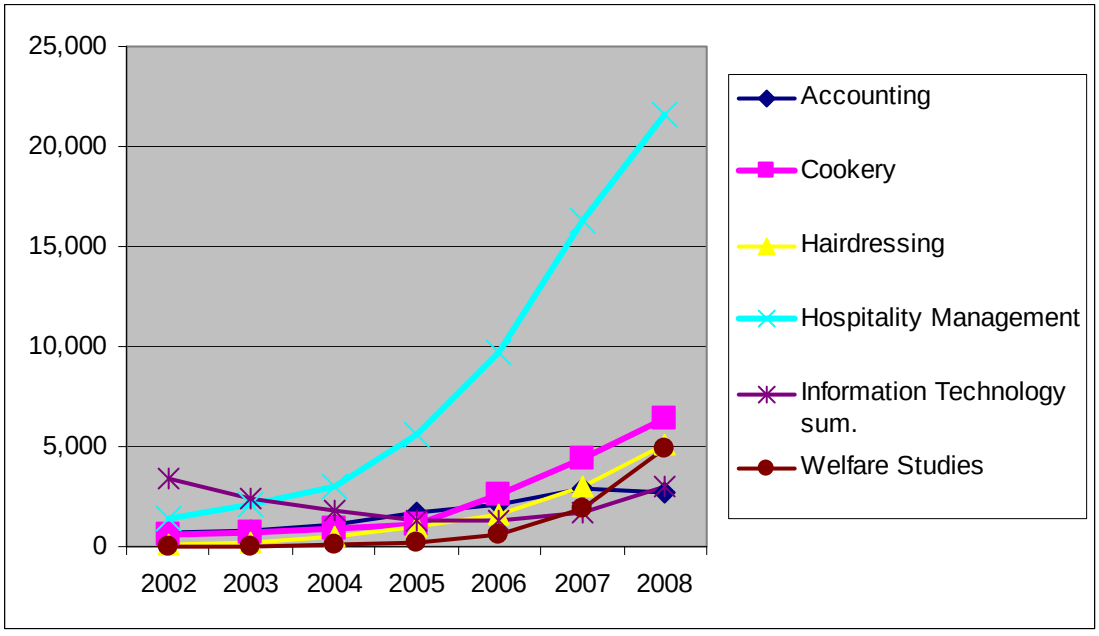
Lodgements primary onshore applications	2006/2007	2007/2008	2008/2009
Employer Sponsored		468	597
Skilled Australian Sponsored	2 863	3 203	6 342
Skilled Independent	22 087	14 996	10 811
Skilled Graduate (Temporary visa)		12 386	23 829
State/Territory Sponsored Visa Classes	414	652	4 129
Grand Total	**25 364**	**31 705**	**45 708**

Chart 1: Growth in international student commencements 2004-2008



* AEI international student data

Chart 2: Commencements Growth - selected courses of study 2002-2008



* DEEWR enrolment data

ATTACHMENT B

OVERVIEW OF ASSESSMENT LEVEL REQUIREMENTS

Note: The following table offers a summary of key evidentiary requirements for student visa applicants. It is not intended as a comprehensive list of all requirements/forms of evidence in Schedule 5A to the *Migration Regulations 1994*.

	Evidence of English Language Proficiency	Evidence of Financial Capacity	Academic Qualifications	Age
AL1	Enrolment by education provider.	A declaration that they have sufficient funds to support their entire stay in Australia.	Enrolment by education provider.	Minimum 6 years of age.
AL2	Enrolment by education provider.	- Evidence of funds to pay for their expenses for the **first 12 months** of their stay; - A declaration that they have sufficient funds to support the remainder of their stay in Australia; and - Funds can be provided by any individual willing to support the applicant if they can demonstrate their income stream.	**Postgraduate Research**: Undergraduate degree. **All other sectors**: Enrolment by education provider.	Minimum 6 years of age.
AL3	**Independent ELICOS and Schools**: Enrolment by education provider. **VET and Non-Award**: 5.5 IELTS or 4.5 IELTS with a preliminary ELICOS course. **Higher Education and Postgraduate Research**: 6.0 IELTS or 5.0 IELTS with ELICOS course.	- Evidence of funds to pay for their expenses for the **first 24 months** of their stay (or duration of preliminary plus first 12 months of principal course for Postgraduate Research); - A declaration that they have sufficient funds to support the remainder of their stay in Australia; - Funds can be provided by any individual willing to support the applicant if they can demonstrate their income stream; and - If evidence of funds is a money deposit, must show a **3 months savings history**.	**Schools**: Completed year 6 **VET**: Completed year 11 **Higher Education**: Completed year 12 or year 11 and foundation studies or Cert IV **Postgraduate research**: Undergraduate degree	Minimum 6 years of age.

	Evidence of English Language Proficiency	Evidence of Financial Capacity	Academic Qualifications	Age
AL4	**Independent ELICOS**: 5.0 IELTS **Schools**: If over 16 years: 5.0 IELTS or 4.0 IELTS with preliminary ELICOS. **VET and Non-Award:** 5.5 IELTS or 5.0 IELTS with a preliminary ELICOS course. **Higher Education and Postgraduate Research**: 6.0 IELTS or 5.0 IELTS with ELICOS course.	- Evidence of funds to pay for their expenses for the **first 36 months** of their stay (or duration of preliminary plus first 12 months of principal course for Postgraduate Research); - A declaration that they have sufficient funds to support the remainder of their stay in Australia; - Funds must be provided by close relatives only who can demonstrate their income stream; and - If evidence of funds is a money deposit, must show a **6 months savings history.**	**Schools**: Completed year 9 **VET**: Completed year 12 **Higher Education**: Completed year 12 or year 11 and foundation studies or Cert IV **Postgraduate research**: Undergraduate degree	Minimum 6 years of age.
AL5	**All subclasses:** IELTS 7.0.	- Evidence of funds to pay for their expenses for the **full period** of their stay; - Funds must be provided by the applicant; - Evidence of income stream; and - If evidence of funds is a money deposit, must show a **5 year savings history**.	**Postgraduate research:** Undergraduate degree **All other sectors:** Year 12. Evidence of relevance to current or prospective employment.	Minimum 6 years of age.

ATTACHMENT C

CURRENT STUDENT VISA PROCESSING ASSESSMENT LEVELS

NOTE: All passports not listed below are Assessment Level 3 (except in subclass 576).
All subclass 576 travel documents are Assessment Level 2

PASSPORT HELD	570 ELICOS	571 Schools	572 VET	573 Higher Education	574 Postgraduate Research	575 Non Award
Andorra	1	1	1	1	1	1
Argentina	2	1	2	2	1	1
Austria	1	1	1	1	1	1
Bahamas	2	2	2	1	1	2
Bahrain	1	1	1	1	1	1
Bangladesh	4	4	4	4	3	3
Barbados	2	2	2	1	1	2
Belgium	1	1	1	1	1	1
Bhutan	2	2	2	2	2	2
Botswana	2	2	2	1	1	2
Brazil	2	1	2	1	1	1
Brunei	1	1	1	1	1	1
Bulgaria	2	2	2	2	2	2
Burma (Myanmar)	3	3	3	3	3	3
Cambodia	4	4	4	4	3	4
Canada	1	1	1	1	1	1
Chile	1	1	1	1	1	1
China	3	4	4	4	3	3
Colombia	2	2	3	2	2	2
Costa Rica	2	2	2	2	2	2
Cuba	2	3	3	3	3	3
Cyprus	1	2	1	1	1	1
Czech Republic	1	1	2	1	1	1
Denmark	1	1	1	1	1	1
East Timor	2	2	2	2	2	2
Ecuador	3	3	3	2	3	3
Egypt	3	3	3	3	2	3
Estonia	1	1	1	1	1	1
Fiji	3	3	4	3	2	3
Finland	1	1	1	1	1	1
France	1	1	1	1	1	1
Germany	1	1	1	1	1	1
Ghana	3	3	4	4	3	3
Greece	1	1	1	1	1	1
Grenada	2	2	2	2	2	2
Guam	2	2	2	2	2	2
Hong Kong SAR	1	1	1	1	1	1
Hungary	2	1	2	1	1	1
Iceland	1	1	1	1	1	1
India	4	2	4	4	4	3
Indonesia	2	2	2	2	2	2

PASSPORT HELD	570 ELICOS	571 Schools	572 VET	573 Higher Education	574 Postgraduate Research	575 Non Award
Iran	3	3	3	3	3	3
Ireland	1	1	1	1	1	1
Israel	2	3	2	2	2	2
Italy	1	1	1	1	1	1
Japan	1	1	1	1	1	1
Jordan	4	3	3	3	2	3
Kenya	3	2	3	3	2	3
Kiribati	3	3	3	3	3	3
Korea, Republic of	2	1	2	1	1	1
Kuwait	1	1	1	1	1	1
Laos	2	2	2	2	2	3
Latvia	1	1	2	1	1	1
Lebanon	4	3	4	3	3	4
Liechtenstein	1	1	1	1	1	1
Lithuania	1	1	1	2	1	1
Luxembourg	1	1	1	1	1	1
Macau (SAR)	1	1	1	1	1	1
Malawi	3	3	3	3	2	3
Malaysia	1	1	1	1	1	1
Maldives	3	2	2	2	2	3
Malta	1	1	1	1	1	1
Mauritius	1	2	2	1	1	2
Mexico	1	1	2	1	1	1
Monaco	1	1	1	1	1	1
Mongolia	3	3	3	3	2	3
Mozambique	3	3	3	2	2	3
Nauru	3	3	3	3	3	3
Nepal	3	2	4	3	2	3
Netherlands	1	1	1	1	1	1
New Zealand	2	2	2	2	2	2
Nigeria	3	3	3	3	4	3
Northern Mariana Islands	2	2	2	2	2	2
Norway	1	1	1	1	1	1
Oman	1	1	1	1	1	1
Pakistan	4	3	4	4	2	4
Papua New Guinea	2	2	2	2	1	2
Paraguay	2	2	2	2	2	2
Peru	2	1	2	1	1	1
Philippines	3	2	3	2	1	2
Poland	1	1	1	1	1	1
Portugal	1	1	1	1	1	1
Puerto Rico	2	2	2	2	2	2
Qatar	1	1	1	1	1	1
Romania	3	2	3	2	1	2
Russian Federation	3	2	3	3	1	3
Samoa, Western	3	3	3	3	3	3
San Marino	1	1	1	1	1	1
Saudi Arabia	1	1	2	1	1	1
Seychelles	2	2	2	1	1	2

PASSPORT HELD	570 ELICOS	571 Schools	572 VET	573 Higher Education	574 Postgraduate Research	575 Non Award
Singapore	1	1	1	1	1	1
Slovak Republic	2	1	2	1	1	1
Slovenia	1	1	1	1	1	1
Solomon Islands	2	2	2	2	2	2
South Africa	2	1	2	1	1	1
Spain	1	1	1	1	1	1
Sri Lanka	4	3	4	4	3	3
St Kitts-Nevis	2	2	2	2	2	2
St Lucia	2	2	2	2	2	2
St Vincent & Grenadines	2	2	2	2	2	2
Sweden	1	1	1	1	1	1
Switzerland	1	1	1	1	1	1
Taiwan	1	1	2	1	1	1
Tanzania	3	3	3	3	3	3
Thailand	2	1	2	1	1	2
Tonga	3	3	3	3	2	3
Trinidad and Tobago	2	2	2	2	2	2
Turkey	3	3	3	2	2	2
Tuvalu	3	3	3	3	3	3
United Arab Emirates	1	1	1	1	1	1
UK British Citizen	1	1	1	1	1	1
UK British National Overseas	2	2	1	1	1	2
United States of America	1	1	1	1	1	1
Uruguay	2	3	2	2	2	3
Vanuatu	2	2	2	2	2	2
Vatican City State	1	1	1	1	1	1
Venezuela	2	1	2	2	1	2
Vietnam	3	2	3	2	1	3
Zambia	3	2	3	2	2	3
Zimbabwe	3	2	3	4	2	3

ATTACHMENT D

ASSESSMENT LEVEL CHANGES 1 SEPTEMBER 2008

Assessment level reduced Assessment level increased

Americas Region Country	Sector	Current AL	AL Outcome
Argentina	Schools (571)	AL2	AL1
Brazil	Higher Education (573)	AL2	AL1
Colombia	VET (572)	AL2	AL3
Costa Rica	ELICOS (570)	AL3	AL2
	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
	Non-Award (575)	AL3	AL2
	Schools (571)	AL3	AL2
	VET (572)	AL3	AL2
Europe Region			
Bulgaria	ELICOS (570)	AL3	AL2
	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
	Schools (571)	AL3	AL2
	Non Award (575)	AL3	AL2
	VET (572)	AL3	AL2
Czech Republic	ELICOS (570)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
Latvia	ELICOS (570)	AL2	AL1
	Higher Education (573)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	Schools (571)	AL2	AL1
Lithuania	ELICOS (570)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	Schools (571)	AL2	AL1
	VET (572)	AL2	AL1
Romania	ELICOS (570)	AL2	AL3
	PGR (574)	AL2	AL1
	VET (572)	AL2	AL3
Russian Federation	PGR (574)	AL2	AL1
	Schools (571)	AL3	AL2
Slovak Republic	Higher Education (573)	AL2	AL1
	Non-Award (575)	AL2	AL1

Assessment level reduced Assessment level increased

South Asia Region Country	Sector	Current AL	AL Outcome
Bhutan	ELICOS (570)	AL3	AL2
	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
	Non-Award (575)	AL3	AL2
	Schools (571)	AL3	AL2
	VET (572)	AL3	AL2
Sri Lanka	ELICOS (570)	AL3	AL4
	Higher Education (573)	AL3	AL4
India	ELICOS (570)	AL3	AL4
	Higher Education (573)	AL3	AL4
	PGR (574)	AL3	AL4
Nepal	PGR (574)	AL3	AL2
	Schools (571)	AL3	AL2
South East Asia Region			
Philippines	PGR (574)	AL2	AL1
East Asia Region			
Cambodia	PGR (574)	AL4	AL3
China	ELICOS (570)	AL4	AL3
	PGR (574)	AL4	AL3
	Non-Award (575)	AL4	AL3
HKSAR of the PRC	Non-Award (575)	AL2	AL1
Korea, Republic of	Higher Education (573)	AL2	AL1
	Non-Award (575)	AL2	AL1
Lao Peoples Democratic Republic	ELICOS (570)	AL3	AL2
	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
	Schools (571)	AL3	AL2
	Non-Award (575)	AL4	AL3
	VET (572)	AL3	AL2
Macau SAR	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	VET (572)	AL2	AL1
Mongolia	PGR (574)	AL3	AL2
Thailand	Higher Education (573)	AL2	AL1
	Schools (571)	AL2	AL1
Vietnam	Schools (571)	AL3	AL2

Assessment level reduced Assessment level increased

Middle East and Africa Region Country	Sector	Current AL	AL Outcome
Botswana	Higher Education (573)	AL2	AL1
Cyprus	ELICOS (570)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	VET (572)	AL2	AL1
Egypt	ELICOS (570)	AL2	AL3
	Higher Education (573)	AL2	AL3
	Schools (571)	AL2	AL3
	Non-Award (575)	AL2	AL3
	VET (572)	AL2	AL3
Ghana	Higher Education (573)	AL3	AL4
	VET (572)	AL3	AL4
Jordan	ELICOS (570)	AL3	AL4
	PGR (574)	AL3	AL2
Kenya	PGR (574)	AL3	AL2
Lebanon	Higher Education (573)	AL4	AL3
Malawi	PGR (574)	AL3	AL2
Mauritius	PGR (574)	AL2	AL1
Mozambique	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
Nigeria	PGR (574)	AL3	AL4
Oman	ELICOS (570)	AL2	AL1
	Higher Education (573)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	Schools (571)	AL2	AL1
	VET (572)	AL2	AL1
Qatar	ELICOS (570)	AL2	AL1
	Higher Education (573)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	Schools (571)	AL2	AL1
	VET (572)	AL2	AL1
Saudi Arabia	ELICOS (570)	AL2	AL1
	Higher Education (573)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	Schools (571)	AL2	AL1
Seychelles	Higher Education (573)	AL2	AL1
	PGR (574)	AL2	AL1
South Africa	Higher Education (573)	AL2	AL1
Turkey	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
	Non-Award (575)	AL3	AL2
Zambia	Higher Education (573)	AL3	AL2
Zimbabwe	Higher Education (573)	AL2	AL4

Assessment level reduced Assessment level increased

South Pacific Region Country	Sector	Current AL	AL Outcome
Fiji	PGR (574)	AL3	AL2
New Caledonia	ELICOS (570)	AL2	AL1
	Higher Education (573)	AL2	AL1
	PGR (574)	AL2	AL1
	Non-Award (575)	AL2	AL1
	Schools (571)	AL2	AL1
	VET (572)	AL2	AL1
Papua New Guinea	PGR (574)	AL2	AL1
Solomon Islands	ELICOS (570)	AL3	AL2
	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
	Non-Award (575)	AL3	AL2
	Schools (571)	AL3	AL2
	VET (572)	AL3	AL2
Tonga	PGR (574)	AL3	AL2
Vanuatu	ELICOS (570)	AL3	AL2
	Higher Education (573)	AL3	AL2
	PGR (574)	AL3	AL2
	Non-Award (575)	AL3	AL2
	Schools (571)	AL3	AL2
	VET (572)	AL3	AL2

ATTACHMENT E

MANDATORY STUDENT VISA CONDITIONS

Primary Visa Holder

8104

(1) Subject to subclauses (2) to (6), the holder must not engage in work for more than 20 hours a week while the holder is in Australia.

(2) If the holder is a member of the family unit of a person who satisfies the primary criteria for the grant of a student visa, the holder must not engage in work in Australia until the person who satisfies the primary criteria has commenced a course of study.

(3) If the holder is able to engage in work in accordance with subclause (2), the holder must not engage in work for more than 20 hours a week while the holder is in Australia unless subclause (4) or (5) applies.

(4) Subclause (3) does not apply if:

(a) the visa for which the primary criteria were satisfied is:

(i) a Subclass 573 (Higher Education Sector) visa; or

(ii) a Subclass 574 (Postgraduate Research Sector) visa; and

(b) the course of study is a course for the award of a masters or doctorate degree that is registered on the Commonwealth Register of Institutions and Courses of Overseas Students.

(5) Subclause (3) does not apply if:

(a) the visa for which the primary criteria were satisfied is a Subclass 576 (AusAID or Defence Sector) visa; and

(b) the course of study is a course for the award of a masters or doctorate degree.

(6) In this clause:

week means the period of 7 days commencing on a Monday.

8105

(1) Subject to subclause (2), the holder must not engage in work in Australia for more than 20 hours a week during any week when the holder's course of study or training is in session.

(1A) The holder must not engage in any work in Australia before the holder's course of study commences.

(2) Subclause (1) does not apply to work that was specified as a requirement of the course when the course particulars were entered in the Commonwealth Register of Institutions and Courses for Overseas Students.

(3) In this clause:

week means the period of 7 days commencing on a Monday

8202

(1) The holder (other than the holder of a Subclass 560 (Student) visa who is an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa) must meet the requirements of subclauses (2) and (3).

(2) A holder meets the requirements of this subclause if:

(a) the holder is enrolled in a registered course; or

(b) in the case of the holder of a Subclass 560 or 571 (Schools Sector) visa who is a secondary exchange student — the holder is enrolled in a full-time course of study or training.

(3) A holder meets the requirements of this subclause if neither of the following applies:

(a) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course progress for:

(i) section 19 of the *Education Services for Overseas Students Act 2000*; and

(ii) standard 10 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007;

(b) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course attendance for:

(i) section 19 of the *Education Services for Overseas Students Act 2000*; and

(ii) standard 11 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007.

(4) In the case of the holder of a Subclass 560 visa who is an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa — the holder is enrolled in a full-time course of study or training

8501

The holder must maintain adequate arrangements for health insurance while the holder is in Australia.

8516

The holder must continue to be a person who would satisfy the primary or secondary criteria, as the case requires, for the grant of the visa.

8517

The holder must maintain adequate arrangements for the education of any school-age dependant of the holder who is in Australia for more than 3 months as the holder of a Subclass 560, 570, 571, 572, 573, 574, 575 or 576 visa (as a person who has satisfied the secondary criteria) or Subclass 563 visa.

8532

If the holder has not turned 18 and is not an AusAID student or a Defence student:

(a) the holder must stay in Australia with a person who is:

(i) a parent of the holder or a person who has custody of the holder; or

(ii) a relative of the holder who:

(A) is nominated by a parent of the holder or a person who has custody of the holder; and

(B) has turned 21; and

(C) is of good character; or

(b) the arrangements for the holder's accommodation, support and general welfare must be approved by the education provider for the course to which the holder's visa relates, and the holder must not enter Australia before the day nominated by the education provider as the day on which those arrangements are to commence.

8533

The holder must:

(a) in the case of a holder who was outside Australia when the visa was granted, notify the education provider of the holder's residential address in Australia within 7 days after arriving in Australia; and

(b) in all cases:

(i) notify the education provider of any change in the holder's residential address in Australia within 7 days after the change occurs; and

(ii) notify his or her current education provider of a change of education provider within 7 days after the holder receives:

(A) a certificate of enrolment from the new education provider; or

(B) if no certificate of enrolment is required to be sent, or if a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment — evidence that the applicant has been enrolled by the new education provider.

8204 (Iranian Citizens)
The holder must not undertake or change a course of study or research, or thesis or research topic, for:

(a) a graduate certificate, a graduate diploma, a master's degree or a doctorate; or

(b) any bridging course required as a prerequisite to a course of study or research for a master's degree or a doctorate;

unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.

Dependent visa holders

8104
1) Subject to subclauses (2) to (6), the holder must not engage in work for more than 20 hours a week while the holder is in Australia.

(2) If the holder is a member of the family unit of a person who satisfies the primary criteria for the grant of a student visa, the holder must not engage in work in Australia until the person who satisfies the primary criteria has commenced a course of study.

(3) If the holder is able to engage in work in accordance with subclause (2), the holder must not engage in work for more than 20 hours a week while the holder is in Australia unless subclause (4) or (5) applies.

(4) Subclause (3) does not apply if:

(a) the visa for which the primary criteria were satisfied is:
  (i) a Subclass 573 (Higher Education Sector) visa; or
  (ii) a Subclass 574 (Postgraduate Research Sector) visa; and

(b) the course of study is a course for the award of a masters or doctorate degree that is registered on the Commonwealth Register of Institutions and Courses of Overseas Students.

(5) Subclause (3) does not apply if:

(a) the visa for which the primary criteria were satisfied is a Subclass 576 (AusAID or Defence Sector) visa; and

(b) the course of study is a course for the award of a masters or doctorate degree.

(6) In this clause:
week means the period of 7 days commencing on a Monday.

8501
The holder must maintain adequate arrangements for health insurance while the holder is in Australia.

8516

The holder must continue to be a person who would satisfy the primary or secondary criteria, as the case requires, for the grant of the visa.

8518
Adequate arrangements must be maintained for the education of the holder while he or she is in Australia.

8204 (Iranian Citizens)

The holder must not undertake or change a course of study or research, or thesis or research topic, for:

(a) a graduate certificate, a graduate diploma, a master's degree or a doctorate; or

(b) any bridging course required as a prerequisite to a course of study or research for a master's degree or a doctorate;

unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.

ATTACHMENT F

DISCRETIONARY VISA CONDITIONS

Principal Visa Holders

8303
The holder must not become involved in activities disruptive to, or violence threatening harm to, the Australian community or a group within the Australian community

8523
Each person who:

(a) is a member of the family unit of the holder (being a spouse or de facto partner of the holder or an unmarried child of the holder who has not turned 18); and
(b) has satisfied the secondary criteria; and
(c) holds a student visa because of paragraphs (a) and (b);

must leave Australia not later than the time of departure of the holder.

8534
The holder will not be entitled to be granted a substantive visa, other than:

(a) a protection visa; or
(b) a student visa the application for which must be made on form 157P or 157P (Internet); or
(c) a Subclass 497 (Graduate — Skilled) visa; or
(d) a Subclass 580 (Student Guardian) visa;

while the holder remains in Australia.

8535
The holder will not be entitled to be granted a substantive visa, other than:

(a) a protection visa; or
(b) a student visa the application for which must be made on form 157P or 157P (Internet); or
(c) a Student (Temporary) (Class TU) visa that is granted to an applicant who satisfies the criterion in clause 570.230, 571.229, 572.229, 573.229, 574.229, 575.229, 576.227 or 580.229 of Schedule 2;

while the holder remains in Australia.

Dependent Visa Holders

8303
The holder must not become involved in activities disruptive to, or violence threatening harm to, the Australian community or a group within the Australian community

8522
The holder must leave Australia not later than the time of departure of the person:

(a) who has satisfied the primary criteria; and
(b) of whose family unit the holder is a member

8534
The holder will not be entitled to be granted a substantive visa, other than:

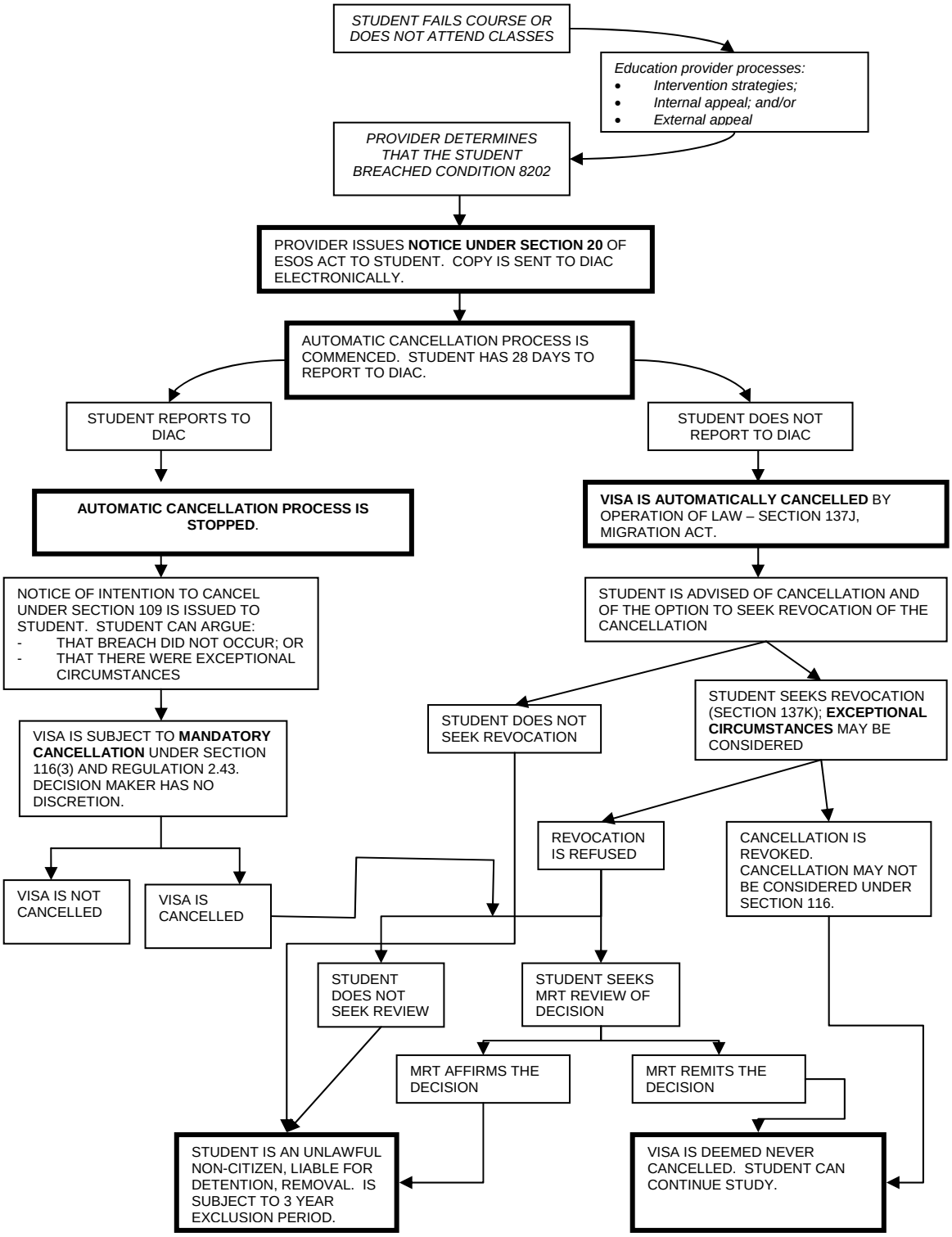
(a) a protection visa; or
(b) a student visa the application for which must be made on form 157P or 157P (Internet); or
(c) a Subclass 497 (Graduate — Skilled) visa; or
(d) a Subclass 580 (Student Guardian) visa;

while the holder remains in Australia.

8535
The holder will not be entitled to be granted a substantive visa, other than:

(a) a protection visa; or
(b) a student visa the application for which must be made on form 157P or 157P (Internet); or
(c) a Student (Temporary) (Class TU) visa that is granted to an applicant who satisfies the criterion in clause 570.230, 571.229, 572.229, 573.229, 574.229, 575.229, 576.227 or 580.229 of Schedule 2;

while the holder remains in Australia.

ATTACHMENT G

STUDENT VISA CANCELLATION PROCESS – Breach of Condition 8202