



Council of Australian Postgraduate Associations (CAPA)

Submission to the EEC Committee inquiry into the Education Services for Overseas Students Amendment Bills (Registration Charges & Streamlining Regulation) 2015



Council of Australian Postgraduate Associations Incorporated

Compiled with the assistance of the staff and office bearers of the Council of Australian Postgraduate Associations (CAPA) and its affiliated member organisations.

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Foreword

The Council of Australian Postgraduate Associations (CAPA), is the peak body representing the interests of Australia's 340,000+ postgraduate students, with over 60,000 undertaking research degrees and over 280,000 pursuing coursework or combined research programs. Founded in 1979, CAPA is a membership based non-profit organisation, our members include over thirty postgraduate associations, and the National Aboriginal and Torres Strait Islander Postgraduate Association (NATSIPA). CAPA carries out its mission through policy, research and activism, communicating the interests and issues of postgraduate students to the Federal Government, Federal Opposition and minor parties, and higher education stakeholders. CAPA is Australia's longest continuously running student peak body and celebrated 35 Years in 2014.

CAPA is concerned with the quality and integrity of international education, and the experience of international students coming to study in Australia. While streamlining will promote the growth and competitiveness of international education providers, a lack of regulation or oversight can lead unintended behaviour particularly when funding is involved. It is for this reason the CAPA is concerned with some aspects of the Education Services for Overseas Students Amendment Bills (Registration Charges & Streamlining Regulation) 2015. CAPA makes this submission with the intention of ensuring that international students wellbeing is a concern and that they are protected from adverse behaviour, we offer the following two recommendations.

Recommendations:

1. CAPA recommends that the reporting of students that default continues in cases where that student has paid some or all of their fees to a course provider
2. CAPA recommends that the fees collected for a course are still held in a separate account inaccessible to the course providers until the course commences unless that course has been successfully registered for more than 2 continuous years

Overview

CAPA accepts that red tape in the higher education sector can impair innovation and impose additional costs particularly when it comes to compliance. However when it's comes to quality, red tape in the form of standards and regulation protects students and their education from exploitation.

This is particularly the case for international education, and a challenge highlighted by the currently proposed amendments to the ESOS act. The proposed legislation changes aimed at streamlining the provision of courses to international students do remove some levels of red tape, but also affect some of the measures in place to protect international students. In light of recent reports of exploitation of international students by employers and profiteering by higher education providers in Australia CAPA has concerns relating to the proposed streamlining. Two areas of concern are reduced reporting requirements by providers, and the regulation of funds accessed by providers.

Reduced reporting requirements

CAPA is particularly concerned by the decreased reporting requirements proposed in the event of student default and allowing providers to immediately access the fees paid by international student before the commencement of the course. These regulations are essential in protecting students and also in aid in preventing less trustworthy course providers from targeting international students. This response will focus on these two major parts of the amendment bill and suggest possible compromises that will decrease red tape, thus increasing efficiency, but also ensure that students and the sector are still protected from shonky providers.

According to section 47 of the Education services for overseas students act the “Timely information about student defaults forms part of an effective tuition protection service, helping to facilitate prompt and effective responses by providers and if necessary by the

Tuition Protection Service in determining if a refund is due and is so making the payment” (ESOS Act, Regulations, National Code and Legislative Instruments, 2000). The purpose of this section is to ensure that in the event of a student default there is an external body that is the decision maker in regards to students receiving refunds on their course fees. The current amendment wishes to change the reporting of student default to cases where the provider only reports a default they have paid a refund to the student (ESOS Amendment streamlining bill 2015, explanatory memorandum). It is a subtle difference but places the decision of a refund not in the hands of an external body but in the hands of the course provider. In most cases this may not be an issue however the protection of students from shonky providers is now placed directly in the hands of those same providers. Whilst the aim of this amendment is to reduce red tape, and the reporting of student defaults may seem an easy place to remove red tape, CAPA is of the opinion that the reporting of defaulting students of only selected cases may create as much red tape as just reporting all cases of student default. It is therefore CAPA's recommendation that this aspect of the bill be reviewed and perhaps expand reporting to any student that defaults but has paid any amount in course fees to a provider thus allowing the outside body to make the final recommendation in regards to a refund. Another option maybe for a more clear appeals process for students that have paid course fees and feel they are entitled to a refund however this itself may create more red tape than leaving the legislation in its current form.

Recommendation 1: CAPA recommends that the reporting of students that default continues in cases where that student has paid some or all of their fees to a course provider

Regulation of access to funds

The second major change to the legislation is allowing course providers access to the funds provided by student fees before the commencement of the course. As the legislation currently stands course fees cannot be accessed until the commencement of that course which prevents course providers from accepting fees and not providing the course (ESOS

Amendment Streamlining Bill 2015, Explanatory Memorandum). CAPA agrees that this system does little to incentivise good course providers it does prevent bad providers from paying the registration fee, accepting the fees from students and not delivering on promised courses. The new legislation also puts forward a new registration fee structure that diminishes if the course is registered for multiple years in a row (ESOS Amendment Registration Charges Bill 2015, Explanatory Memorandum). It is CAPAs suggestion that while a course is in the first 2 years the fees from students are kept in an account that cannot be touched by providers as with the current system but from the third year of successful and continuous registration fees can be accessed as soon as paid to ensure that they may be used to improved course delivery. This compromise will provide both a security measure from scam providers as well as incentivise those course providers that are seen as doing the right thing in their first 2 years of operating. This system adds little red tape to the current system as the timing is based around the registration fees for that course.

Recommendation 2: CAPA recommends that the fees collected for a course are still held in a separate account inaccessible to the course providers until the course commences unless that course has been successfully registered for more than 2 continuous years.

References

Department of Education and Training. *Education Services for Overseas Students Act, Regulations, National Code and Legislative Instruments* (2000) Retrieved from: <https://internationaleducation.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Regulations/Pages/default.aspx>

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