

Submission to the Senate Legal and Constitutional Affairs Legislation Committee regarding the:

Migration Legislation Amendment (Student Visas) Bill 2012

ISANA: International Education Association

26 April 2012

ISANA is distinct among international education peak bodies by having a target membership of practitioners with high levels of direct contact with international students and a strong awareness of issues that international students face.

Student experiences of ESOS and student visa matters are well known to ISANA members, and this submission aims to draw upon that member knowledge.

Therefore, ISANA's interest in making this submission is:

to provide feedback on how the implementation of the Migration Legislation Amendment (Student Visas) Bill 2012 will impact on international education practitioners, and their students.

ESOS Act Amendments

Section 5

The proposed amendment to Section 5 increases the capacity for accepted students to be contacted by their education provider, and stakeholder agencies such as DIAC. ISANA regards this objective as beneficial to all concerned.

ISANA notes that subsection 5(a) refers to a student's "current residential address" which is interpreted to mean a physical address, and not a post office box address. Many students living in central city precincts often choose to use a post office box, or similar non-physical address for regular mail services. Therefore ISANA would like to see an explicit inclusion of postal addresses.

Sections 5(b) and (c) are very appropriate improvements.

Section 19

The proposal to include contact details in paragraph 19(1)(a) is fully supported by ISANA.

The addition of paragraph 19(1A) has merit in terms of increasing the capacity to contact student visa holders; however, it also adds a direct burden to education providers as a compliance measure.

ISANA fully supports this objective, but believes that the contact details compliance ought to rest with the visa holder. There would be a variety of ways that this could be achieved. Here is one alternative that ISANA would see as an appropriate balance of responsibilities:

1. ISANA notes that VEVO allows visa holders to have read-only access to their visa status. ISANA believes that much more use could be made of access from visa holders.
2. PRISMS is currently limited to a small set of prescribed registered users, but could host a portal for students to get interactive access to their own COE and identity information. By providing carefully constructed access, visa holders could directly update their contact details.
3. It is reasonable to assume that without strong and clear guidance, students may not be vigilant in maintaining their current contact details. Therefore, a support system could be implemented by education providers as follows:
 - a. For students to reliably get result notifications etc from their education provider, they must have their current contact details registered with their education provider. Therefore, there is a clear motivation for students to ensure these details are maintained.
 - b. Education providers could be required to provide a link to the Student PRISMS Portal as a final step in students managing their own contact details.
 - c. As such, students updating their own contact details would be a two-step process: firstly with the education provider and secondly with PRISMS.

Section 20

The amendments for section 20 are aimed at detaching subsection 20(1) from the automatic visa cancellation provisions under section 137J of the Migration Act. ISANA accepts that, on balance, this is an improvement by eliminating automatic visa cancellations applied in error.

However, ISANA believes that the proposal is unnecessarily circuitous by engaging an unnecessary contradiction:

Subsection (1) currently states:

“A registered provider must send an accepted student of the provider a written notice if the student has breached a prescribed condition of a student visa.”

The proposed subsection (4A) states:

“A registered provider must not send a notice under subsection (1) on or after this subsection commences.”

With specific reference to paragraph 22 of the Explanatory Memorandum:

“The purpose of this amendment is to stop registered providers from sending any accepted student a notice under subsection 20(1) on or after the day new subsection 20(4A) commences.”

ISANA believes that by directly amending subsection (1), instead of adding subsection (4A), to remove the obligation to send a written notice would be a much more expedient solution, and that the contradiction between these subsections is illogical and has no apparent benefit.

Migration Act Amendments

The recommended amendments to section 137J of this Act are a direct consequence of the amendments to Section 20 of the ESSOS Act. However, if ISANA’s recommendation to amend subsection 20(1) of the ESOS Act directly were to be followed, the changes to section 137J of the Migration Act would need to be amended precisely in accordance with whatever amendments are made to Section 20 of the ESOS Act.