

**Department for Industry, Innovation and Science**

**Inquiry into the Education Services for Overseas  
Students Amendment (Quality and Integrity) Bill  
2024**

Submission from the South Australian Government

June 2024



# South Australian Government Submission to the Inquiry into the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024

The South Australian Government is pleased to provide this submission to the Committee's Inquiry into Education Services for Overseas Students (ESOS) Amendment (Quality and Integrity) Bill 2024 (the Inquiry).

This submission includes input from the South Australian Government, StudyAdelaide and CRICOS registered university and vocational education providers based in South Australia.

International education delivers enduring economic benefits and in 2023 was South Australia's largest export sector, valued at \$3.15 billion. This economic contribution, while significant to the state does not capture other equally important aspects of international education, such as attracting highly talented students to our classrooms, strengthening global linkages at the academic and personal levels, creating a graduate workforce for businesses in Australia and alumni with a shared understanding of Australia's values and perspective.

For the year ending December 2023, there were over 54,000 international students, from over 130 nations, enrolled in South Australian education providers – 50% in Higher Education providers, 32% in Vocational Education and Training (VET) providers, 11% in English Language Intensive Courses for Overseas Students (ELICOS), 4% in schools and 3% in Non-Award courses (e.g., Exchange, Study Abroad and Foundation Studies programs).

The newly created Adelaide University, which recently was formally registered as an Australian higher education provider by the Tertiary Education Quality and Standards Agency (TEQSA), has signalled the growth of international students as a significant factor underpinning its domestic and international ambition. The South Australian Government strongly supports this ambition for growth in international students at Adelaide University, as well as at Flinders University and TAFE SA.

The South Australian Government offers the following comments in response to the Inquiry.

## **Upholding the quality and integrity of the international education sector**

The South Australian Government supports measures in the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024 (the Bill) to strengthen the integrity and quality of the international education sector, which will boost its global reputation and competitive advantage as well as help retain public confidence and the Commonwealth's Government's social license for the sector.

The South Australian Government welcomes the strengthening of legislative powers to enable ESOS agencies to disrupt activity that does not provide international students with a quality education experience due to poor practice by providers and education agents.

The following amendments, welcomed by education providers in South Australia, will work to ensure unscrupulous providers do not leverage and exploit the reputation of quality education that has been built on the efforts of the many providers who deliver an exceptional education experience. This includes amendments in the Bill outlined in:

- Part 2 – Giving information to registered providers
- Part 3 – Management of provider applications
- Part 4 – Registration requirements
- Part 5 – Automatic cancellation of registration
- Part 6 – Investigation of offences

In particular, the focus on the below elements will strengthen the integrity of providers operating in international education and in turn the education that international students receive:

- amending the fit and proper test (Part 1)
- deterring collusive behaviour between providers and agents (Part 1)
- requiring providers to deliver courses to domestic students as a prerequisite for approval to expand into teaching overseas students (Part 4), noting that providers that are listed in Table A of the Higher Education Support Act 2003 will be exempt from the proposed new registration requirement; an essential exemption for the new Adelaide University
- automatically cancelling the registration of providers who have not delivered training to overseas students for a consecutive 12-month period (Part 5)
- ability to suspend the enrolment of new overseas students by providers under serious regulatory investigation (Part 6)

Where referenced in the legislation, the South Australian Government also supports the retrospective application of these amendments to disrupt any activity to try and circumnavigate these changes before they are implemented.

The amendment to pause the assessment of registrations from new international education providers and new courses of existing providers for up to 12 months (Division 5, 14C) will allow ESOS agencies to stop all assessments for higher education and vocational education and training providers. Whilst it is recognised that this amendment is designed to support a managed system to deliver sustainable growth over time in the international education sector, and if required divert resources to address integrity issues as they arise, the South Australian Government proposes that that this clause be made more explicit on what would trigger the suspension of assessing registrations. This would ensure that the sector does not have rolling or continuous interruption through pausing assessments for new courses, that could hamper the sector's international competitiveness in responding to evolving skills and education needs.

## **Power to set limits on the maximum number of overseas students to be enrolled with a provider**

The South Australian Government recognises there has been a stronger than expected recovery of parts of the international education sector since it suffered the crippling impact of closed borders and reduced student mobility due to the COVID-19 pandemic.

This recovery has played out differently across the various sectors within international education and throughout different locations across Australia. South Australia has not experienced the same level of growth in international enrolments as universities in other capital cities, particularly in Sydney, Melbourne and Brisbane. Similarly, there has been variation in the recovery of VET providers in South Australia. This is a result of many factors, including the composition of the student cohort, rankings, destination awareness and impacts of Ministerial Direction 107. The impact of various policy changes enacted from December 2023 has seen a 10% year on year decline in international student commencements for higher education in South Australia as of March 2024.

When considering the amendments outlined in Parts 7 and 8 of the Bill to limit the enrolments of overseas students by provider, course or location over a year, there needs to be a long-term perspective on the international education sector and not a reaction to only the current trajectory of growth. Attracting international students is highly competitive with many other destinations also looking to benefit from the skills, economic and diplomatic advantages that a strong international education sector provides. Setting maximum enrolment levels may adversely affect Australia's reputation as an international study destination, particularly following other measures that have been announced as part of the Migration Strategy reforms. It is noted that since announcing caps in January 2024, Canada has gone from being the equal first ranked international education study destination to fourth, according to IDP Education's latest Emerging Futures survey of more than 11,500 international students from 117 countries.

The South Australian Government has concerns about the level of Ministerial discretion these amendments would provide the Minister and how this legislation will be interpreted and implemented by successive Ministers for Education and in response to the current and future migration strategies.

These concerns also extend to the reference to both Australia's skills needs and public interest as considerations for automatic suspension and cancellation of courses and the discretion the Minister will have in determining what courses can be taught to international students, and at which locations.

The international education system is large, diverse and complex. If these powers are added to the ESOS Act, there is a risk that the current strengths of the sector (economic, education quality, research partnerships, diversity of academic disciplines and diversity of student cohorts) are traded away for a short-term requirement to reduce the number of international students onshore due to an exceptional recovery from the COVID-19 pandemic. Setting maximum levels for enrolments of international students needs to take into account the fact that international students are each individual consumers with many options for where they choose to undertake their international studies.

The ability for the Minister to issue a notice setting an enrolment limit for a provider that considers the availability of purpose-built student accommodation available to both domestic and international students, as set out in the Explanatory Memorandum Outline (page 4) and at clauses 227 and 263 is also of concern. Allowing Higher Education providers which build new purpose-built student accommodation to enrol additional students could pose challenges in the South Australian market, as Adelaide has not experienced the same issues with international students struggling to find accommodation as in some other capital cities, and not all purpose-built student accommodation providers are at full capacity. There are also issues with the timing and approvals required to build new accommodation, with most capital city developments taking many years to complete.

## **Maximum enrolment limits and alignment to Australia's skills needs**

South Australia values the contribution international students make to addressing skills needs in our state. Alignment of education to Australia's skills needs is an important consideration as we look to build the talent that Australia requires to match our economic and societal aspirations. This is especially true in South Australia where the Government is pursuing sustainable population growth to support the workforce requirements that cannot solely be met through the local population. However, the emphasis in the Bill on aligning courses to those that provide value to Australia's skills and training needs overemphasises this outcome from international education, as it is only one mechanism to address work force needs and challenges in Australia and South Australia.

The majority of international students do not stay in Australia after they complete their studies, so these students should be able to study courses that align with their ambitions and their home country's labour market. Changes to the Temporary Graduate Visa settings which come into effect on 1 July 2024 mean international students with a Bachelor or Masters by Coursework qualification over the age of 35 upon graduation are excluded from receiving a graduate visa to work in Australia. The legislation should balance the need to attract and retain a qualified workforce for Australia with the varied other motivations and benefits that international students and Australia derive from international education.

Critically, international students will not support all workforce needs in South Australia as some of our major workforce shortages are in areas of study that require placement, such as nursing, and there are capacity restrictions around placement levels that prevent an expansion in course numbers.

The mechanism for maximum enrolment limits to be aligned with Australia's skills needs may have the consequence of reducing Australia's influence in other areas. An example is the Australia Awards program, administered by the Commonwealth Government, which is a driver of Australia's geo-political influence. The settings for this Award require the recipient to return to their home country upon graduation and that their course of study benefits their home country.

More broadly international education has played a consistent and impactful role in supporting Australia's strategic and foreign policy objectives. In South Australia where students from over 130 nationalities chose to study, live and become members of the community, the impact of their understanding of Australian values and perspectives learnt in the classroom, community and workplaces have an important soft power effect for aiding Australia's foreign international objectives.

## **Distinction between locations within Australia**

There is reference in the Bill in 26B, 26C and 26D to new powers for the Minister for Education to impose total enrolment limits on providers with reference to any matter, including but not limited to, any of the following:

- (a) the kind of provider;
- (b) the kind of courses provided by the provider;
- (c) the location of courses provided by the provider;
- (d) other circumstances applying in relation to the provider

Regarding clause (c) the current concentration of approximately 70% of all international students studying in Sydney, Melbourne and Brisbane reflects the international brand recognition these cities enjoy as well as the education offering and often strong diaspora.

The inclusion of locations as a consideration for setting maximum enrolment limits by provider and course level may offer the ability to use this instrument to ensure a stronger distribution of international students across Australia and outside of Sydney, Melbourne and Brisbane, which also have the largest housing availability challenges. Many parts of Australia, including Adelaide and South Australia are pursuing sustainable population growth and have the capacity and capability to increase international student numbers. All capital cities within Australia are not the same in their education provider composition, accommodation capacity, nor their skills and population needs.

The Bill in its current form does not specify any mechanism to ensure that the intention of reducing the concentration of international students in certain metropolitan locations and growing demand for regional providers can be enacted through the legislation. As a much smaller capital city than its eastern states counterparts, that is considered regional for migration purposes, Adelaide offers a unique experience to students and has support from the South Australian Government matched with quality education providers across higher education and vocational education and training, such as TAFE SA, to grow international student enrolments.

The South Australian Government is concerned with how a maximum enrolment setting can be implemented across all VET and Higher Education providers in a way that considers the nuance of the provider and their location. In South Australia all of our public and private universities are principally located in greater Adelaide, as is 78% of the State's population. Definitions referenced in the Explanatory Memorandum to the Bill, such as the reference in clause 199 to 'higher education providers located in a metropolitan area' may fit the larger capital cities of Sydney, Melbourne and Brisbane and their geographical dispersal but if this categorisation was applied to South Australia it would result in the main teaching campuses of each of the State's public and private universities being particularly disadvantaged. This approach would also appear inconsistent with the current regional definitions used across the migration system.

## **Exemptions by provider type**

The focus of the Bill is on VET and Higher Education providers and the South Australian Government supports the exemption of schools, English Language College providers and non-award courses in the legislation.

TAFE should be considered separate to private VET providers in consideration of any specific action or requirements outlined in the Bill. This reflects the level of reporting and compliance activity that TAFE is already required to deliver as the public vocational education provider.

## **Australia's Reputation and Global Standing**

International students have choice in where they study and what they study. Australia's education experience and flow on benefits need to be competitive. The proposed amendments to the ESOS Act need to ensure that they are not responding solely to current issues or concerns with legislation that over time will detract from the appeal of our education offerings to international students that choose Australia as a study destination.

Parts 7 and 8 of the Bill include clauses around maximum enrolment limits and automatic suspension or cancellation of courses for international student enrolments. The 'public interest' is provided as one reason for a class of courses to be automatically suspended or cancelled. This, along with the focus on Australia's skills needs and priorities, may undermine the strength of Australia's partnerships and our contribution and global standing to education that spans multiple countries and lies at the heart of our sectors influence.

If you would like to discuss this submission and require further information, please contact Jane Johnston, Chief Executive StudyAdelaide via email on \_\_\_\_\_ or Karen Hunt, Director, Higher and International Education, Department for Industry, Innovation and Science via email on \_\_\_\_\_