

Queensland Department of Education and Training International Submission

Senate Inquiry

- Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011;
- Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011;
- Education Services for Overseas Students (TPS Levies) Bill 2011

The Queensland Department of Education and Training International (DET International) welcomes the opportunity to provide a submission to the Senate Education, Employment and Workplace Relations Committees on the Overseas Student Bill, specifically the proposed ESOS legislative amendments listed above. DET International would be pleased to provide further information to assist the Committee's considerations and would welcome the opportunity to make a presentation to the Committee.

This submission is written from the perspective of the schooling sector, and in particular the Queensland Government Schools sector which operates its business in the interest of ensuring a world class, quality driven, efficient, student friendly education experience for international students.

Background

The Queensland Department of Education and Training (DET) seeks to engage Queenslanders in lifelong learning by providing high quality, accessible services to the state's education and training sectors.

DET International contributes to DET's vision by providing strategic leadership for the implementation of the Queensland Government's international education and training policy, strategy and marketing activities.

DET International encompasses Education Queensland International (EQI), the CRICOS-registered international education and training provider for Queensland government schools. DET International activities involve the development and implementation of all international education programs relating to the State school sector. DET International manages the International Student Programs for the Queensland Department of Education and Training. Currently there are 64 schools registered to provide courses for international students, operating under the one CRICOS code (00608A).

While the school sector is a small component of the International Education industry, the sector offers significant contributions to Government internationalisation strategies, and significant direct community benefits. For example the Queensland Government Schools sector contributed in excess of \$100 million in direct community benefits in the last three years.

General Comments

DEEWR's implementation of the recommendations of the Baird Review (Phase 2) include proposals for:

- A new Tuition Protection Service (TPS) to replace the current Tuition Assurance Schemes to protect international students in the case of provider default
- Limits on prepaid fees and strengthened record keeping to underpin a risk mitigation strategy for the industry
- National CRICOS registration for providers operating across a number of locations for simplification of the regulatory imposts for multi-jurisdictional providers
- Technical amendments to strengthen enforcement and monitoring options for DEEWR

Officers from DET International have spoken with and met with officers of the Department of Education, Employment and Workplace Relations (DEEWR) responsible for drafting the proposed legislative amendments to discuss the drivers underpinning the proposed changes to the ESOS Act. Both in this forum and at the recent Joint Council for International Education (JCIE) meeting, there was an acknowledgement that the standalone school providers both government and non-government operate as very high quality, low risk providers.

DET International offers broad support for the strengthening of the proposed Overseas Student Tuition Fund's Tuition Protection Services (TPS) structure but would like it acknowledged that the school sector is one of the lowest risk sectors of the industry. Michael Knight, in his report "Strategic Review of the Student Visa Program 2011" also describes the school sector as low risk. The draft amendments will provide a significant increase in work load and compliance costs across the International Education industry, particularly for low risk providers such as Government schools, and the Australian school sector.

The Schools sector is looking at mechanisms to improve its competitiveness in their current markets and it is important to carefully assess the cost of the proposed amendments to ensure that they will not be overly prohibitive and impact on the operations of providers. This does not mean that the industry should compromise on its commitment to the delivery of quality programs, rather that the mechanisms for ensuring compliance with the agreed standards should be strengthened through the actions of the relevant regulatory bodies.

Some of the proposed amendments seem to be aimed at risk management strategies to minimise the consequences of provider default. DET International would like to ask that there is a careful assessment of the level of risk of the school sector which takes into consideration the potential

increase in operational costs in order to comply with the proposed amendments. DET International as a government schools provider is highly regulated and complies with the current ESOS Act requirements and The National Code. The strengthening of the regulatory environment for international education through the establishment of TEQSA and ASQA should also lead to better consumer protection for international students and the minimisation of risk of damage to the reputation of the industry. Within the schools sector, the risk of provider default is negligible.

DET International supports the changes and strengthening of the new regulatory environment for the international education industry, but would like to stress that the school sector has not been considered in the implementation of the new regulatory bodies. It is understood that DEEWR will retain registration and enforcement for the schools sector, through State and Territory Regulatory delegations, but given the changes to these bodies under the new frameworks, there is uncertainty in the school sector as to the changes that this may entail. DET International would welcome consultation with the schools sector, State and Territory Authorities and DEEWR to clarify this situation.

One of the key aims of the Baird report is to take a simplified risk based approach to managing the international education industry. DET International endorses this approach, but the proposed “one size fits all” approach to the minimisation of risk may have the inadvertent effect of raising the level of regulatory obligation placed on compliant (low risk) providers through the more onerous elements which have been proposed. The strengthened penalties for non-compliance will also require that providers are clearly aware of their obligations under the new amendments, so that there are no inadvertent breaches of the amendments. Some of the proposed amendments may need clarification and rewording to ensure clarity of roles and responsibilities for the various stakeholders.

The impact of the proposed amendments may lead to a significant administrative burden on behalf of providers to meet the compliance requirements rather than ensuring industry focus on delivering quality programs and the needs of students. It has been suggested that the recent changes to the Annual Registration Charges (ARC) structure will offset this administrative burden, but there is the potential that the proposed changes will increase the administrative compliance requirements necessary for providers to meet the requirements. Compliance and regulatory officers’ focus should be on appropriate and targeted oversight and regulation of the international education industry. The proposed amendments also seem to conflict with the recommendations of the Knight Review to simplify the regulatory environment for providers and for DEEWR and DIAC. While the advent of national regulators in VET and Higher Education provides evidence of streamlining in those sectors, the same cannot be said for schools.

DET International is of the view that detailed consultation needs to take place across the International Education industry, DEEWR and with Department of Immigration and Citizenship (DIAC) prior to the implementation of some of the proposed amendments to the ESOS Act including the cost of building the reporting frameworks to manage the proposed compliance activities. DET International recommends that the Committee examines the evidence and data surrounding the proposed risk levels for the schools sector. DET International recommends that the Committee examines the impact studies or estimates that have been developed by DEEWR to model the cost of implementation of the new compliance requirements to ensure that providers are able to remain competitive, sustainable and viable businesses.

Recommendations

Recommendations 4 and 5 are seen as most important for the schools sector, with the highest level of potential negative impact on the sector.

Recommendation 1.

That the current exemption criteria from the Tuition Assurance Scheme for education providers as per the ESOS Act 2000 be retained. If this recommendation is accepted, an amendment be made to allow the Exempt education providers be permitted to place students who are impacted in the event of other education provider's default as a support to the International Education industry. (Page 5)

In the event that a TPS is levied against all providers, that appropriate consultation occur with the industry prior to the establishment of the TPS regulatory body and in establishing the TPS Advisory Board, it is suggested that members from the schools sector of the industry be included. (Page 5)

Recommendation 2.

That the regulations and penalties around compliance for high risk providers be strengthened and administered through the regulatory agencies (TESQA, ASQA and State and Territories Authorities). (Page 5)

Recommendation 3.

That the current reporting requirements as articulated in the current ESOS Act and The National Code continue. (Page 6)

If there is an amendment to strengthen the record keeping requirements under the ESOS Act, that information is provided on the timeline for implementation of systems and processes to be used to record such updates and that the reporting requirements relating to notification of student default are realistic and reasonable and meet the purpose of managing non-genuine students.

If such a system is implemented, DET International would recommend that the amendment is changed to reflect that data should be updated within 7 days of any changes. The responsibility of the Regulators may be to audit the mechanisms used to achieve compliance.

Recommendation 4.

That the Study Period is not defined as a maximum of 24 weeks in length, but rather as a school year/twelve month study period for school sector students. (Page 9)

Recommendation 5.

That there is no limit on the collection of pre-paid tuition fees for the school sector. (Page 11)

That there is no limit on pre-paid tuition fees that may be received once the course has begun for the school sector.

That there is no time limit on when pre-paid tuition fees may be received from continuing students.

Detailed Comments

Proposed Amendments	Current Legislation	Implications	Recommendations
Obligations on registered providers Part 3 / General obligations Division 1, Section 24 – 26 / Schedule 1 Tuition protection service / Part 5			
<p>Implementation of a Tuition Protections Service Levy (TPS) for all registered providers.</p>	<p>Certain Providers including DET International are exempt from the requirement to pay annual fund (TAS) contributions</p>	<p>Establishing an Overseas Student Tuition Fund through a TPS levy for all providers is not an efficient method of risk mitigation of Provider default.</p> <p>The School sector and Government Schools are extremely low risk providers in highly regulated environments. Spreading the cost of regulating high risk providers across the schools sector seems excessive given their risk profile.</p> <p>The proposed establishment of the TPS does not include any information on how the fees will be calculated. The cost of a TPS levy is not within current pricing models or forward planning of exempt providers. Estimates of the cost of the ARC reductions in 2012 and the possible cost of the TPS levy if a provider is deemed to be a low risk provider may result in a cost benefit for such providers, but this is an unknown at present.</p> <p>There will be a significant cost in establishing an entity to administer the proposed TPS and to dismantle the current funds that are operating. It is unclear from the proposed amendments how the new entity will be funded. If it is to be funded by industry rather than DEEWR then the costs of such a body should be clearly articulated for the industry and consultation occur prior to the establishment of such a body.</p> <p>Following on from this, the timeline to establish such a body needs to be realistic and clarity in finalising the operations of current Tuition Assurance Funds need to be considered.</p>	<p>1. That the current exemption criteria from the Tuition Assurance Scheme for education providers as per the ESOS Act 2000 be retained. If this recommendation is accepted, an amendment be made to allow the Exempt education providers be permitted to place students who are impacted in the event of other education provider's default as a support to the International Education industry.</p> <p>In the event that a TPS is levied against all providers, that appropriate consultation occur with the industry prior to the establishment of the TPS regulatory body and in establishing the TPS Advisory Board, it is suggested that members from the schools sector of the industry be included.</p> <p>2. That the regulations and penalties around compliance for high risk providers be strengthened and administered through the regulatory agencies (TESQA, ASQA and State and Territories Authorities).</p>

Proposed Amendments	Current Legislation	Implications	Recommendations
Schedule 6 – Record Keeping pages 103-104			
<p>Student Record Keeping Documented procedure to update student records on at least a 6 months basis.</p> <p>Student's progress in a unit of study is assessed and recorded</p> <p>Student Records retained for a minimum of 2 years.</p>	<p>ESOS Act Section 21</p> <p>National Code Standard 5</p>	<p>The proposed amendments pertaining to Records of Students' details (2B) may require significant process change and allocation of resources in order to record each student's results for each study period and document early intervention strategies that have been implemented into a specified system.</p> <p>Currently PRISMS is not designed to hold intervention notifications and all student results per subject per study period. This amount of information will require significant change in processes and recording functions. It is unclear as to the benefits of such a recording system across such a diverse industry.</p> <p>Each DET International school is responsible for recording the students' contact details and results. The retention of documents is also part of the schools' responsibilities and schools comply with Queensland legislation in relation to retention of documents. DET International currently manages all non-compliance reporting on PRISMS on behalf of its schools in compliance with ESOS and The National Code. Each school manages individual student results record keeping, and inputs information into the departmental student management system. Another form of accountability for Queensland schools is the mandatory reporting to Queensland Studies Authority of all Year 11 and 12 results.</p> <p>The proposed amendment (2A) requires providers to update the contact details of each student at least every six months. It is unclear from the proposed amendments as to whether the provider is required to update PRISMS with any changes to student contact details. In the past providers were required to notify DIAC of any change of details within 7 days of such change. There was an amendment in July 2007 of the ESOS Act and National</p>	<p>3. That the current reporting requirements as articulated in the current ESOS Act and The National Code continue.</p> <p>If there is an amendment to strengthen the record keeping requirements under the ESOS Act, that information is provided on the timeline for implementation of systems and processes to be used to record such updates and that the reporting requirements relating to notification of student default are realistic and reasonable and meet the purpose of managing non-genuine students.</p> <p>If such a system is implemented, DET International would recommend that the amendment is changed to reflect that data should be updated within 7 days of any changes. The responsibility of the Regulators may be to audit the mechanisms used to achieve compliance.</p>

Proposed Amendments	Current Legislation	Implications	Recommendations
		Code where providers had to maintain current contact details for each student. DET International complies with this requirement.	
Notification within 24 hours of Student Default	Time period is defined as 14 days notification using PRISMS in current ESOS Act	<p>The impact of legislated timeline notifications on all education providers is extremely high. Additionally it is proposed that the notification is to two entities – PRISMS and TPS.</p> <p>It is not practicable to notify DEEWR via PRISMS of student default within 24 hours. Natural justice should allow a sufficient period of time to elapse prior to reporting of student default. Often students are delayed in starting their course due to delays in issuing of student visas (this is particularly prevalent for students from AL4 countries eg China).</p> <p>The school sector has significant processes and procedures to monitor the welfare of international students. This is related to the welfare provisions for Under 18 students. Within DET International, international students are managed in accordance with the requirements for Under 18 students regardless of age.</p> <p>Attendance monitoring in DET International schools means that DET International may be informed of student absence within a 6 hour period of a student not attending class. This may be because of sickness. Schools investigate and if a student is away without approval, procedures are implemented to manage the situation. The highly regulated schools sector manages these aspects of student enrolment particularly well.</p> <p>The Knight Review recommended that DIAC manage compliance of serious compliance issues, not administrative notifications. This proposed amendment may place a significant burden of investigation on DIAC</p>	

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		<p>compliance officers as the risk of student default is higher under the proposed changes.</p> <p>Currently PRISMS does not have the capability to manage the notifications that are proposed. Audit activities by the Regulators may meet the intention of this proposed amendment, whereby if providers are meeting the requirements of the current National Code standards, there should be adequate management of non-genuine students.</p>	
<p>Student Default for non-payment of fees Link to Pre-paid fees</p>	<p>Notification of non-payment of fees through PRISMS</p>	<p>Under the proposed changes in limiting the amount of pre-paid fees able to be receipted, student default for non-payment of fees will increase. Issues for the school sector are:</p> <ul style="list-style-type: none"> • Management of Under 18 yrs students. If a provider notifies through PRISMS that a student is to be cancelled welfare arrangements will still be in place for up to 2 months. If the student accesses the Complaints and Appeals policy, the provider may have to provide welfare arrangements during the period and allow the student to access studies during this time. • If provider notifies that it cannot hold welfare for student, the result will be that DIAC compliance officers will have an increase in workload and management of this type of cohort. The School sector may therefore increase in risk given the likelihood of students with bad debt and the subsequent cancellation of student visas for non-compliance. • In the case that a student finds another provider, the initial bad debt still remains. • Issues may arise in relation to timing of cancellation of student visas. 	

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		<p>At present, a debt management policy is in place to manage bad debts. Annual invoicing for continuing students minimises the risk of bad debts and for DET International's Study Abroad program, current invoicing of full payment means that there is minimal bad debt for this program. Under the proposed amendments, debt management will have to be increased, and there will be an increase in the administration of the finances of the international student programs.</p>	

Schedule 3 – Pre-Paid Fees

Section 5 pre-paid fees / study period

<p>Study Period. Proposed definition of a study period of a maximum of 24 weeks.</p> <p>The written agreement will need to incorporate the study periods for each international student.</p>	<p>Not defined</p>	<p>Background: Queensland schools operate on a four term per year - two semester per year basis. Depending on the definition of a course, a school student in Queensland could study for</p> <ul style="list-style-type: none"> • Senior secondary - 2 years, Years 11 and 12 • Secondary studies - 5 years, Years 8-12 currently or 6 years from 2015, Years 7-12 • Primary studies – 8 years, Preparatory Year to Year 7 (or 7 years, Preparatory Year to Year 6 in 2015) • Schooling - 13 years, Preparatory Year to Year 12 • A school year is approx 40 to 42 weeks in length. • High School Preparation Program – 20 weeks <p>DET International charges fees on an annual basis, unless the student is in a Study Abroad course (min 3 months, max 12 months). Implementation of a defined study period will result in significant changes to DET International's operational processes and enrolment management across the system. DET International's Offers of a Place include the duration of the course (the study periods are not defined in this document as the important information is the duration of the offer, and the year levels offered to the student). The Statement of Fees</p>	<p>4. That the Study Period is not defined as a maximum of 24 weeks in length, but rather as a school year - twelve month study period for school sector students.</p>
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Proposed Amendments	Current Legislation	Implications	Recommendations
		<p>that accompanies the offer has the overall amount of fees payable as well as the amount to be paid in order to accept the offer (part of the DET International-Student Agreement).</p> <p>In speaking with DEEWR it was intimated that the proposed study period definition was based on a typical University semester. Universities have defined semesters with concrete subjects that usually span a semester period. Other parts of the international education industry do not operate in such discrete time periods. Again, a “one size fits all” arrangement has unintended consequences for other parts of the industry. The aim of the Baird Recommendations were to strengthen consumer protection arrangements, but the proposed amendment limits the ability of the industry to be flexible to the international education market and limits the ability of providers to operate in an effective and efficient manner.</p> <p>Section 22, Points 3, 4, and 5 are inconsistent under the current drafting and do not mirror the requirements for courses under 10 weeks in duration.</p> <p>Defining study periods only for the purpose of managing provider default and minimising refunds of fees is an onerous and complex requirement. The diversity of the sector complicates this proposed amendment.</p> <p>To implement the proposed amendments will require quite significant system changes and operational system design by providers.</p>	
Division 2 / Section 27 – Pre-paid fees (pages 90 – 92)			
Section 28 Obligations for registered provider to maintain designated account	Not defined in current ESOS Act	The proposed amendments (Section 31) include an exemption from this requirement for providers administered by a State Education authority.	No comment.

Proposed Amendments	Current Legislation	Implications	Recommendations
<p>Limit of amount of pre-paid fees collected to 50% of fees for initial study period.</p>	<p>Not defined in current ESOS Act</p>	<p>Background: DET International offers international students a range of programs including:</p> <ul style="list-style-type: none"> • Graduate programs - minimum one year to maximum 5 years in duration. Fees invoiced on an annual basis • Study Abroad programs - minimum study 3 months and maximum of 12 months duration. Fees invoiced in full for duration of study <p>Once initial payment is received, a Confirmation of Enrolment is generated which links to a student visa application. Payment of fees constitutes formal agreement with the DET International International student contract.</p> <p>This proposed amendment will require multiple invoicing for each student in all CRICOS registered programs and application processing and debt management resources will need to be strengthened.</p> <p>Having a maximum duration study period of 24 weeks and limiting the receipt of pre-paid fees to 50% of fees for the initial study period means that students will only pay a quarter of the fees required on an annual basis in their initial study period.</p> <p>There will also be significant impacts on education agents. There will be an impact on payment of agent commission by DET International, as agents are only paid when the student has paid relevant tuition fees. There will need to be changes to agent contracts to manage the changes to payment of fees. Reputational risk to the industry will rise given that there may be a restriction of cash flow to international partners (education agents) which may impact on the industry. Australia may be viewed as less competitive than our competitors.</p>	<p>5. That there is no limit on the collection of pre-paid tuition fees for the school sector.</p> <p>That there is no limit on pre-paid tuition fees that may be received once the course has begun for the school sector.</p> <p>That there is no time limit on when pre-paid tuition fees may be received from continuing students.</p>

Proposed Amendments	Current Legislation	Implications	Recommendations
		<p>Issues with packaged courses – eg HSP (intensive English) and mainstream and enrolment deposit for principal course of study. Under the proposal there is no allowance for packaged courses where places may need to be held at least 6 months in advance of principal course of study occurring.</p> <p>The intent to strengthen student consumer protection because of issues with non-compliant providers, means that low risk providers in the school sector are administratively burdened with unnecessary compliance requirements and the risk of attracting non-genuine students increases.</p>	
<p>Limit on when pre-paid fees may be received once the course has begun. Provider must not receive tuition fees more than 2 weeks before the beginning of a study period for the course.</p>	<p>Not defined in current ESOS Act</p>	<p>Background: Currently DET International invoices on an annual basis for continuing students. In general DET International invoices for tuition fees and other fees such as homestay on the one invoice. Implementing a time line of when tuition fees may be receipted may lead to duplication of processes, confusion for consumers, and limits to consumer choice.</p> <p>There may be a high impact felt in markets where there are significant costs to transfer money to another country (eg China). There will be higher bank fees and transaction fees for each student and a higher administrative cost for providers to manage this system.</p> <p>The proposed changes only allow providers to receive subsequent tuition fees two weeks prior to the commencement of the next study period. This will limit debt management options prior to commencement of service delivery. Issues may arise including:</p> <ul style="list-style-type: none"> • When is the student considered to be in default? • What time line is appropriate prior to reporting a student for non-payment of fees? 	

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		<p>In some cases students may wish to pay the entire cost or the annual cost for their studies. Legislating for amounts and timelines seems to be onerous. The ability of Compliance officers to monitor this requirement will also be quite difficult.</p> <p>Additional complications are that when students apply for a student visa, they must demonstrate that they have the required funds to meet the costs of their proposed course. Limiting their options in paying for their course limits consumer choice and may lead to a rise in non-genuine students.</p>	

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