

**Submission to the Senate Committee**

**On**

**The Bill for an Act to amend the Education Services for Overseas Students Act 2000, and  
for related purposes; -**

**Education Services for Overseas Students Amendment (Re-registration of Providers and  
Other Measures) Bill 2009**

**By:**

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I am the CEO of Imperial College of Technology and Management. I have been professionally associated with the Australian education system in higher education and VET sector for past sixteen years. I have been actively involved in number of community organisation, where I had first hand opportunity to understand the welfare and settlement issues of new comers to Australia, either as overseas students or new migrants. Thus, I am well placed to address the issues concerning regulations of overseas education providers and student welfare.

I welcome the initiative of Australian Government in addressing the student welfare and associated issues within the third largest export industry - Overseas Student market within Australian Education System.

Education providers in Australia are registered under the Education Services for Overseas Students Act 2000 and associated regulations, Education Services for Overseas Students Regulations 2001. The ESOS framework is supported by the National Code 2007. The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (the National Code) provides nationally consistent standards for the conduct of registered providers and the registration of their courses.

No doubt every Act and Regulation requires timely amendments to be inline with the requirements of the day. At the same time, Act and Regulation can be as good as underling implementation systems and processes supporting the Act. If the underling systems and processes have big holes, bare amendment of the act may not be able to achieve the desired outcome.

Quality framework within the AQTF 2007 and National Code is outcome based and the provisions of the ESOS regulatory framework is to ensure that quality education is provided by the Australian education providers to the overseas students and at the same time providers must allocate sufficient resources for student welfare.

I would like to submit some critical issues as below for the consideration of the senate committee.

### **Registration Process**

Registration process of education providers are regulated by the State Registration bodies and some state and territories have delegated the authority to NARA for multi jurisdictional RTO's. Registration of education provider for overseas students is a two step process. RTO is firstly audited against the AQTF standard and then ESOS framework and national code to be registered on CRICOS. Every state and territory registration body not only has different mechanism and methods for both of these audits, but also different timeline for the processing of applications. This in my view is one of the reasons for disproportional number of education providers in various jurisdictions. In general, when a new application is received, the applicant is given a date and time for the AQTF/CRICOS audit. I am not sure, if the check is done at that stage on the business, education and other related backgrounds of the Directors/shareholders and CEO of the application. Hypothetically, an individual can register a company with ASIC by paying \$400 and self appoint himself as a Director and then CEO of the RTO.

### **Recommendations:**

1. Consistent approach of registration and audit process by all State and Territory registration bodies until such time when a new national body is formed.

2. Thorough check of applicants at initial phase including mandatory interview of CEO's of the RTO. Subsequent change to the position of CEO within RTO should only be allowed once the registration body is satisfied with the credentials of the appointee.

### **International Student Market**

Overseas education market contributes third largest income stream to the Australian economy. This work has taken several years and positive contributions by all stakeholders – Federal and State Governments, Education Providers and Overseas Education Agents. Private RTO's are Australian small to large businesses operated by Australian citizens. Universities and TAFE's in part are funded by Australian tax payers. In the recent months, too much emphasis and negative publicity has been given to hand full of education providers and not much public awareness on the positive outcomes and economic benefits of delivering quality education to overseas students. In considering the recommendations for improvement to ESOS framework, it is imperative that the strength of the private providers and their contribution to the economy is not forgotten.

### **Recommendations:**

Public awareness on the positive contributions of private providers in Australian education system at state and federal level.

### **Auditors and Consultants**

Auditors are mostly engaged by the state regulatory bodies on contract basis. Majority of the time these auditors are also acting as consultants and sells teaching and other resources to interested RTO's. As an important anchor and stakeholder in this debate, auditors and consultants should also be regulated. There should be a minimum qualification framework for auditors and consultants which are publically available. One would not be surprised that an audit given all ticks by one auditor gets completely hammered by another auditor within a span of few months. There are inconsistencies in the audit reports and the advice given by consultants to the RTO's. Currently there is no national uniform standard or compliance template, which an RTO can use. These issues are more relevant now, considering every CRICOS provider may have to undergo another audit in the next twelve months.

### **Recommendations:**

1. Consistent audit process across all regulatory bodies
2. A person should either be a consultant or an auditor
3. Code-of-conduct and minimum standards before an individual can be appointed as an Auditor by the regulatory body.

### **PRISMS**

PRISMS is the central portal of DEEWR for the issues of eCOE's. It has been frequently reported that the provider XYZ overenrolled the students. Even at current date, PRISMS only send the alert message once a provider reaches 95% of its approved student's enrolment capacity. PRISMS have major flows in it and often does not produce the right reports for the providers. A well structured database, such as PRISMS should be able to produce necessary data for the regulatory body, without putting too much pressure on the resources and time. At the same time the portal can be an important element of continuous improvement process of the education provider.

### **Recommendations:**

1. Automatic locking of issue of eCOE's via PRISMS once the provider reaches its approved capacity.

2. Reporting mechanism and system functionality of PRISMS to be enhanced to 21<sup>st</sup> century.

### **Student Finances**

Every overseas student must have access to genuine sufficient funds before a student visa is granted. DIAC has often raised the concern that the evidence of financial documentation submitted by the applicant may not be genuine. At the same time, majority of education providers also face the issue where student fees are not paid in time, resulting in some handful of education agents and providers luring the group of students who are in arrears of their course fee to change providers.

#### **Recommendation:**

Every intending student must deposit full course fee or if the course is longer than two years for the two years into an Australian Education Fund. This fund can be managed at federal level and the invested income from the fund can also be utilised to provide student services. This mechanism will stop the rorting of the system and at the same time will reduce the time DIAC spend in investigating the source of the fund. Provider should be required to invoice the fund to claim the course fee. This will automatically check the compliance with National Code 7 e.g. two providers sending the invoice for same period for same student.

### **Role of Education Agents**

Migration Agents in Australia are regulated by the Office of MARA whereas there is no regulation of Education Agents. Although, the term Migration/Education Agent is frequently interchanged and used loosely by the media both in Australia and overseas. Onshore education agents are mainly operating in the CBD's of each state and within walking distances from the office of DIAC and regulatory bodies. In the absence of any regulatory framework or code of conduct, no government department at State or Federal level is able to take any action. These agents openly advertise for shonky deals for the students in newspapers or via other media. Some state governments are spending massive amount of tax payer funds investigating RTO's whereas no action or funds have been allocated to govern the onshore education agents.

#### **Recommendation:**

1. Formation of a National body to regulate offshore agents and DIAC and Education provider to use only approved agents.
2. Students should be prohibited from using onshore education agents.