

**COPHE Submission to Senate Committee for Education, Employment and
Workplace Relations**

Education Services for Overseas Students Legislation Amendment Bill 2010

The Education Services for Overseas Students Legislation Amendment 2010, introduced into the House 23 June 2010, was referred to the Senate Committee for Education, Employment and Workplace Relations, to report by 24 August. The Amendments implement several of the Baird recommendations, which COPHE supports.

We believe these and the previous Amendments fail to address a significant flaw in the original ESOS legislation, which has led to unnecessary provider closures and allegations of unethical practice from a small number of providers. We refer to Section 29 of ESOS, which requires the provider who defaults to refund to the student the total of the course money, less some minor amounts. We believe the intent of the legislation, and the common industry interpretation for some years post 2000 was that the amount refunded should be the unexpended portion, as is the case of refunds under the HESA 2003 legislation. The requirement to refund all tuition fees, even for sections of the course already completed (and for which the student can get credit from a new provider), and for preliminary courses on the same COE, is unjust on providers, inconsistent with other legislation (HESA) and leads to the displacement of students when the provider is unable to refund the full amount.

This point has been presented by industry bodies in the earlier review of Tuition Assurance Schemes, and more recently to the Baird Review. We believe it is accepted by DEEWR as a desirable correction. We are therefore surprised it has not been addressed, and urge its inclusion in the current set of ESOS Amendments.

Following is an extract from the Baird Report, Recommendation 17a:

http://aei.gov.au/AEI/GovernmentActivities/InternationalStudentsTaskforce/ESOS_Review_Final_Report_Feb_2010_pdf.pdf

17. That ESOS be amended to:

a. only refund the portion of the course not delivered or assessed when the provider fails to meet their obligation

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