



National Tertiary Education Union

PO Box 1323, South Melbourne
Victoria, Australia 3205
Tel 03 9254 1910
Fax 03 9254 1915

NTEU Submission

to the

Senate Education, Employment and Workplace Relations Committee Inquiry into the Services for Overseas Students Amendment Bill 2009

Organisation: National Tertiary Education Industry Union

Contacts: Dr Carolyn Allport, National President NTEU
(callport@nteu.org.au)

Paul Kniest, Policy and Research Co-ordinator
(pkniest@nteu.org.au)

Details: 120 Clarendon St
South Melbourne Victoria 3205
03 92541910

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Introduction

The National Tertiary Education Union (NTEU) represents approximately 25,000 staff employed in the Australian higher education industry. The Union welcomes the opportunity to make a submission to the Senate Education, Employment and Workplace Relations Committee's *Inquiry into the Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Bill 2009*.

NTEU notes that the proposed Bill seeks to introduce changes pending a more substantive review of the ESOS framework. The Bill requires the re-registration of all institutions currently registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) by 31 December 2010. It also introduces two new registration requirements for education providers, and requires that providers list the names of their agents and ensure such agents comply with any matters set out in the ESOS regulations.

In providing a submission on these matters, NTEU would note that many of the issues surrounding the operation of the ESOS framework have been covered in the NTEU's submission to the Senate Education, Employment and the Workplace Relations Committee's *Inquiry the Welfare of International Students*, a copy of which is attached (**ATTACHMENT 1**).

In addition to the recommendations made in that submission we would like to address the following issues:

1. Re-accreditation of all CRICOS providers, and other amendments to the ESOS Act.
2. The operation of the Tuition Assurance Schemes and ESOS Assurance mechanisms.
3. The establishment of a Student Ombudsman or similar body.

1. Re-accreditation of all CRICOS providers and other amendments to ESOS Act.

As the recommendations in the attached submission indicate, NTEU is of the view that many of the current problems in relation to international students arise from deficiencies in the existing ESOS framework, largely due to a lack of clarity and division of responsibility regarding the relevant government agency responsible for monitoring and enforcing compliance of education providers listed on CRICOS.

While we have made a number of recommendations seeking to strengthen the nature of some of these regulations, it is clear that any such changes are unlikely to have a real effect unless they can be effectively monitored, compliance enforced, and breaches appropriately remedied.

NTEU is supportive of the proposed amendments to the *ESOS Act* contained in the Bill. However we remain concerned about the capacity to properly monitor and enforce breaches of the *Act* and the *National Code* without fundamental changes to the regulatory framework, as outlined in the attached submission. In particular NTEU supports of the following proposed measures/amendments:

Schedule 1: Items 5 and 7 which impose additional requirements on providers to:

- Demonstrate that their principal purpose is education.
- Clearly demonstrate a capacity to provide education of a satisfactory quality and standard.

Schedule 2: Item 4 which requires that education providers list all education agents used and ensure they comply with all requirements imposed upon them.

2. The operation of the Tuition Assurance Schemes and ESOS Assurances Fund.

Similar to the NTEU's concerns with the monitoring and enforcement of ESOS regulations, we maintain that there is a fundamental question about the design and implementation of the ESOS Assurance Fund, and in particular, its relationship to, and interaction with, Tuition Assurance Schemes (TAS).

The assurance mechanisms included in the ESOS Act are designed to ensure that international students are able to continue their studies in Australia, or receive a refund of their course fees, if and when:

- The course in which they are enrolled does not commence on the agreed starting date,
- The course in which they enrolled is no longer available from the provider with whom they are enrolled; or
- The course cannot be delivered or completed because the provider has ceased to operate as a provider of education to international students.

NTEU understands that the assurance mechanisms operate at two levels:

- Tutorial Assistance Schemes (TAS), and
- The ESOS Assurance Fund.

It appears that where students are unable to complete their studies with the provider with whom they enrolled, then the TAS for which the provider is a member will seek to relocate those students into a comparable course. This is meant to happen within 28 days and at no additional tuition cost to the student.

It also seems that only where a student cannot be successfully relocated by the TAS (to whom the original provider was a member) does that student then have access to the ESOS Assurance fund to have their fees refunded.

The operation of a TAS is limited by the fact that educational institutions which are directly funded by government (for example, universities and public TAFE colleges) are exempt from having to be a member of a TAS. This means that where a student finds themselves in a position where they cannot complete their education with the original provider, choices offered them will be limited to institutions or providers that are members of the relevant TAS. We are aware of examples of international students being denied the opportunity to transfer to a provider of their choice on the grounds that that provider was not a member of the TAS of which the original provider was a member.

We would emphasise that this is the NTEU's understanding of how the assurance mechanisms within the ESOS framework operate in lieu of more explicit directions within the

legislation or by relevant government agencies and TAS operators. Despite several attempts to get clarification from the Department of Employment, Education and Workplace Relations (DEEWR) who referred us to the ESOS Assurance Fund Manager and the ACPET TAS, NTEU is still not in a position to clarify what processes are followed when an international student would prefer to seek access to the ESOS Assurance fund. For example, we are not clear whether a student has the right to apply directly to the ESOS Assurance fund or whether it is only a TAS that can refer such a case.

If seeking to clarify relevant processes in relation to the assurance mechanisms associated with ESOS is highly problematic for a higher education organisation such as the NTEU, it would almost be impossible for international students (who are likely to be unfamiliar with Australian legislation and for whom English may be a second language) to be in a position to clarify this situation on their own account.

NTEU recommends that there should only be one national assurance scheme for all providers of education to international students, and that this should be independent of all providers.

3. The establishment of a Student Ombudsman or similar body

Given the complexity of regulatory and assurance mechanisms that operate within the Australian education sector, NTEU supports the calls for the establishment of a national student ombudsman or similar body which would provide a single point to which international students could direct all inquiries and/or complaints and receive the appropriate assistance and support.