

Senate Committee: Education and Employment

**QUESTION ON NOTICE
Supplementary Budget Estimates 2015 - 2016**

Outcome: Higher Education Research and International

Department of Education and Training Question No. SQ15-000803

Senator Carr, Kim provided in writing.

Higher Education and the Trans Pacific Partnership

Question

Is higher education included in the exemptions Australia has secured under the Trans Pacific Partnership in relation to the international dispute settling procedures?

Why not? What are the implications of this for the regulation of Australian higher education?

In what areas of regulation will Australia potentially be constrained by the possibility of legal action by foreign universities or other entities?

Could legal action potentially be taken in relation to:

- Registration and accreditation by TEQSA and/or ASQA? (Would foreign providers be subject to such regulation, in any case?)
- Access to FEE-HELP, VET FEE-HELP and other sources of student financing?
- Any other processes or provisions? Which ones?

Will foreign entities be subject to the same risk assessment frameworks as Australian providers?

Australian students can now apply for financing to study overseas under the OS-HELP scheme. What will be the impact of the TPP on this, if any?

Staff movements in and out of Australia

Will foreign entities active in higher education be able to transfer staff to Australia for extended periods? What visa arrangements will they be subject to?

Can the Government guarantee that any staff imported by foreign entities be subject to comparable wages and conditions with Australian higher education employees?

What arrangements can be guaranteed for Australian higher education staff transferred overseas for extended periods?

Answer

The Department of Foreign Affairs and Trade has been consulted in preparing the following responses.

The Trans Pacific Partnership (TPP) will not affect the regulation of this sector. No specific exemption was required.

Nil

We are not aware of any areas of regulation in the higher education sector which may be constrained by the possibility of legal action by foreign universities or other entities.

No, these registration and accreditation processes and access to education fees assistance are not within the scope of the TPP. In addition, in the TPP, Australia has made clear that the obligations under the TPP will not interfere with:

- the ability of education and training institutions to maintain independence in relation to the setting of admissions policies, tuition rates and the development of curricula or course content

- accreditation and quality assurance procedures
- government funding, subsidies or grants to education and training institutions.

Foreign entities will continue to be subject to the same risk assessment frameworks as Australian providers.

Nil

Australia is offering temporary entry commitments on a reciprocal, category by category basis to those TPP Parties who offer substantive commitments to Australian business persons in equivalent categories. In return for TPP Parties offering similar substantive access, suitably-qualified intra-corporate transferees, including in the higher education sector for those specified on the Consolidated Sponsored Occupations List (CSOL) at any given time, will be able to stay in Australia initially for up to four years if they are executives and senior managers and up to two years if they are specialists.

On the same basis, Australia will offer contractual service suppliers from TPP countries, including in the higher education sector for those specified on the Consolidated Sponsored Occupations List (CSOL) at any given time, the ability to stay for an initial period of up to twelve months and independent executives from TPP countries the ability to stay for up to two years. Australia's TPP commitments for intra-corporate transferees and contractual service suppliers will be implemented through the 457 visa program, which is designed to enable employers to address workforce needs by bringing in appropriately-skilled workers where they cannot find a suitably-skilled Australian.

Australia's TPP commitments are consistent with Australia's existing immigration and workplace relations frameworks and the approach taken in other free trade agreements.

In accordance with the 457 visa program, employers will still need to sponsor the temporary entry of skilled foreign workers, meet market salary rates and offer employment conditions as required under Australia workplace law, and equivalent to those accorded to Australian workers performing similar duties in the workplace. Skilled foreign workers will be required to meet minimum qualification requirements, including any relevant skills testing and existing professional licensing requirements at the Federal, State and Territory Government level.

The TPP will deliver improved access for Australian teachers, academics and other staff of education institutions. Highlights include:

- Australian universities and vocational education providers will be able to transfer faculty and other staff to offshore campuses for extended periods
- Independent Australian education professionals seeking contracts to work at overseas education institutions will have guaranteed access with streamlined visa arrangements and longer periods of stay, including in Vietnam, Malaysia and Mexico
- Japan has offered commitments additional to the Japan-Australia Economic Partnership Agreement (JAEPA), which will guarantee access for Australian academics to take up teaching and research positions at Japanese universities and technology colleges
- Independent Australian education marketing professionals and education consultants will be guaranteed access to temporarily work in Malaysia.

Details of the temporary entry commitments of each TPP Party can be found at:
<http://dfat.gov.au/trade/agreements/tpp/official-documents/Pages/official-documents.aspx>