



## Education Services for Overseas Students

# Reporting student defaults and refunds

*In December 2015 the Education Services for Overseas Students (ESOS) Amendment (Streamlining Regulation) Bill 2015 passed through Parliament to amend the Education Services for Overseas Students Act 2000 (ESOS Act). The changes to reporting about students and refunds came into effect on Monday 14 December 2015.*

### Overview

- Providers no longer need to report a student default within five business days.
- To meet Tuition Protection Service (TPS) reporting obligations, providers only need to report on whether they have provided a refund to a student in two cases of student default:
  - where a student's visa is refused, even if there is a compliant written agreement in place
  - where there is no compliant written agreement in place.
- In the cases of refund outlined above, providers must report that they have discharged their obligations to the student within seven days after the end of the provider obligation period of 28 days, which is in total 35 days after the default occurs.
- Providers do not need to report on student refunds where a compliant written agreement is in place and it is not a case of visa refusal.
- Providers must still report changes to a student's enrolment as required by section 19 of the ESOS Act.
- The timeframe for reporting changes to a student's enrolment under section 19 has been extended from 14 to 31 days.
- There are two exceptions to this timeframe for students under 18 years of age. Providers must report within 14 days where an under-18 student either does not commence their course or terminates their studies. This ensures extra protection for this vulnerable group of students.

## Benefits for students

Longer time periods for reporting student defaults and changes to a student's enrolment give providers time to establish if a student has genuinely defaulted.

This will reduce the risk of students unwittingly breaching their visa conditions if they have a legitimate reason for being absent and forget to advise their provider.

For students under 18, where welfare concerns are paramount, reporting must take place within 14 days if they do not commence their course or their study ends early.

## Benefits for providers

Reporting requirements have been adjusted to ensure that reporting is less burdensome for providers but supports the TPS and student visa requirements.

Providers are still required to report on refunds in the case of visa refusal and where there is no compliant written agreement in place, to ensure students are protected and support TPS reporting.

A 'compliant written agreement' is one which is compliant with the ESOS Act and the *National Code of Practice for Providers of Education and Training to Overseas Students 2007* (National Code).

When entering into a written agreement, providers should clearly set out what period of time a payment of tuition fees relates to. Refunds paid under section 47E of the ESOS Act are calculated under the Education Services for Overseas Students (Calculation of Refund) Specification 2014, which involves working out how many weeks are in a default period and the associated tuition fees.

Extending the timeframe for reporting student course variations from 14 days to 31 days reduces red tape for institutions, while maintaining the essential requirements on institutions to accurately report the status of student enrolments.

## About the *Education Services for Overseas Students Act 2000*

Australia protects international students through the Education Services for Overseas Students (ESOS) legislation, which requires institutions to meet nationally consistent standards to provide education and training services. It also enables the Australian Government to monitor education providers. Breaches of the Act are treated very seriously and the penalties can be significant.

All institutions wanting to deliver courses to international students in Australia must be registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) and meet the registration conditions set out in the ESOS Act. Providers must comply with the ESOS Act and the National Code and, if appropriate, the ELICOS or Foundation Program Standards to meet these conditions. They must be 'fit and proper' to be registered and have the principal purpose of providing education. The ESOS agency\* must be satisfied that that the provider will provide education of a satisfactory standard to overseas students. Providers must also pay the registration and tuition protection fees that apply to their institution.

\*Note: The changes to the ESOS Act creating the concept of an ESOS agency for a provider take effect on 1 July 2016.