



Education Services for Overseas Students

Flexibility in paying tuition fees upfront

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 (ESOS Act). Changes to tuition fee payment requirements came into effect on Monday 14 December 2015.

Overview

- Students, or the person responsible for paying the tuition fees, can now *choose* to pay more than 50 per cent of their tuition fees before they start their course.
- Providers cannot require students to pay more than 50 per cent of their tuition fees before they start the course.
- Providers should be able to show evidence that students have exercised choice in how much of their tuition fees are paid up front.
- Short courses with a duration of 25 weeks or less are not subject to the 50 per cent limit.
- There are no longer any restrictions on collecting tuition fees after a student has started their course.
- Non-exempt (private) providers are still required to hold any tuition fees paid before a course commences in a designated account.

Benefits for students

Changes to the 50 per cent limit on upfront tuition payments

Students and their sponsors can now *choose* to pay more than 50 per cent of tuition fees up front if they wish to do so. This allows students and those paying fees on their behalf, such as their parents or a scholarship sponsor, to pay any amount greater than 50 per cent of the tuition fees to take advantage of favourable exchange rates or have the convenience of only paying once.

Removal of restrictions on the collection of remaining fees

Students can now work out a more flexible payment plan with their provider. Previously students could not start paying their remaining fees until two weeks before the start of the second study period. This restriction is now removed.

Providers must still make tuition fee details clear, through a written agreement with each student. This is a requirement of the ESOS Act and the *National Code of Practice for Providers of Education and Training to Overseas Students 2007* (National Code).

The written agreement must set out course details, an itemised list of course fees the student has to pay including tuition fees, and refund arrangements.

Benefits for providers

Changes to the 50 per cent limit on upfront tuition fee payments

Providers can now *accept* more than 50 per cent of tuition fees before a course starts if the student, or the person responsible for paying the fees, *chooses* to pay more. This gives providers more flexibility to accommodate the payment preferences of their students. This will reduce the administrative burden of keeping track of multiple invoices and payments.

Providers still cannot *require* students to pay more than 50 per cent up front; this must be initiated by the student or their sponsor. Short courses (25 weeks or less) are exempt from this limit.

Demonstrating evidence of student choice

Students, or the person paying the tuition fees on their behalf, will now be able to pay more than 50 per cent of their tuition fees before they start a course if they wish to. The ESOS Act requires that this be a student's choice. A provider still cannot require the student to pay more, unless it is for a short course of 25 weeks or less.

It is important that the student's choice be supported by some form of evidence. Some of the options for providers to ensure they can demonstrate the student's choice are:

- including a question in the application form for the course that asks whether the student wishes to pay only half or more fees before they start
- including a statement in their written agreement template that says a student can pay full fees if they wish to, but they are not required to pay more than 50 per cent up front
- ensuring their marketing material and course information outlines the options for students to pay their tuition fees, in addition to one of the above.

If a student pays a greater amount of their tuition fees than invoiced, there is no requirement on the provider to return the excess amount, unless it is an overpayment of the total tuition fees.

Removal of restrictions on collecting remaining fees

Providers can now offer a more flexible payment plan in written agreements with students, without restrictions on when students can start to pay the remaining fees after their course starts. This allows providers to standardise payment schedules for all students and reduce the administrative burden. It also ensures students know how much they need to pay and when.

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 fees registration and tuition protection 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.