Education Services for Overseas Students Act 2000

TPS and Other Measures Bill 2011

Questions and Answers

These Questions and Answers have been prepared following the passage of the Education Services for Overseas Students Legislation Amendment (Tuition Protection and Other Measures) Bill 2011. The list of Questions and Answers will grow over time as new questions emerge from the international education sector and students. Any comments and questions should be sent to the department via the ESOS Enquiry on-line form available from: http://www.aei.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/Pages/ESOSEnquiry.aspx

Why has the ESOS Act been amended?

The ESOS Review, conducted by the Hon Bruce Baird AM between August 2009 and March 2010, recommended changes to the Education Services for Overseas Students (ESOS) Act 2000 to improve regulation of the international education sector following a period of rapid growth and to make ESOS “stronger, simpler and smarter”.

These amendments represent the second phase of the Government’s response to the Baird review and address key recommendations that weren’t covered by the Government’s first response amendments to the ESOS Act enacted in April 2011.

The Education Services for Overseas Students Legislation Amendment (Tuition Protection and Other Measures) Bill 2011 was passed by Parliament on 1 March 2012. Subject to Royal Assent, the changes will commence on 1 July 2012.

A. The Tuition Protection Service (TPS)

What did the Baird review recommend for reforming the tuition protection arrangements and why?

The Final Report of the Baird Review Stronger, simpler, smarter ESOS: supporting international students, released in March 2010, made a number of recommendations about the establishment of a new single Tuition Protection Service (TPS) to replace the current two layered Tuition Assurance Scheme (TAS) and ESOS Assurance Fund arrangements. The TPS was recommended to provide a more flexible and streamlined approach to student placement and refund arrangements in the event a provider does not deliver the course to a student as agreed and does not meet its obligations under the ESOS framework to offer the student an alternative placement (accepted by the student) or a refund.

Recommendation 16 of the Baird Review was for the establishment of a single TPS that:
• provides a single mechanism to place students when a provider does not meet its refund obligations and provide refunds as a last resort
• enables placement with an appropriate provider
• imposes levies based on risk
• requires providers to regularly maintain student contact details in Provider Registration and International Students Management System (PRISMS), and other information on a risk basis
• removes provisions for ministerial exemptions from membership of a tuition protection scheme.

Mr Baird consulted with a wide range of stakeholders including students, providers, peak bodies, government, tuition assurance schemes (TAS) and the current ESOS Assurance Fund Manager about their experience with the existing ESOS Tuition protection framework.

Consultation feedback referred to the experience of provider closures in 2009 and 2010 which had highlighted a number of concerns with the current model including:
• failure of many defaulting providers to meet their refund obligations
• double-handling and delays in the placement or refund process related to the two layers of processing first by the relevant TAS and then the ESOS Assurance Fund
• placement difficulties when there was a large number of students needing to be placed at the same time and insufficient suitable places available among TAS members in the area
• a lack of financial incentives for providers to place affected students, particularly those that had fully pre-paid all fees to the defaulting provider
• students who felt they did not have enough say in the placement process
• some providers who, largely due to their particular course and/or student profile, experienced difficulty obtaining TAS membership or an exemption as a requirement of registration and
• significant refund pressure on the sector funded ESOS Assurance Fund requiring Government financial assistance.

Mr Baird canvassed four options for a strengthened tuition protection framework and the Department appointed Taylor Fry Consulting Actuaries to undertake analysis of these options to inform the review recommendations. This analysis is included in the review final report.

**How will the new system differ from the current system?**

Providers will still be obligated under ESOS to offer students an alternative place (acceptable to the student) or to provide students with a refund in the event of provider default or a refund as per the written agreement with the student in the event of a student default.

Consistent with the recommendations of the Baird review, the Government will establish a new TPS as a single layer tuition protection mechanism when a provider fails to meet its obligations in the case of a default. The new TPS framework will act in the first instance to facilitate the placement of students and where this is not possible, to provide a refund of unexpended tuition fees (i.e. tuition the student has paid for but has not been delivered by the provider). This will replace the current combination of Tuition Assurance Schemes and the ESOS Assurance Fund.

Contributions to the TPS framework will be universal but also risk based, with all currently available exemptions from the Assurance Fund arrangements removed. All providers of international education services will be required to pay an annual TPS Levy. All providers must participate and no provider can be refused tuition protection cover.

Two other key differences are that students will have a greater role in the placement process and receiving providers will receive a placement fee equivalent to the student’s unexpended pre-paid tuition when they agree to accept a displaced student.

**When will the TPS commence?**
The new tuition protection framework will commence on 1 July 2012.
What is the TPS?

The TPS is not a body as such but an overall system of tuition protection made up of a number of elements.

A TPS Director

- The TPS Director will be appointed by the Minister, be responsible for determining the amount of the TPS levy, and accountable for the monies collected and held in the Overseas Student Tuition fund (OSTF) for administrative, placement and refund purposes.

A TPS Advisory Board

- Board members will be appointed by the Minister on the basis of individual expertise and experience in the industry, as well as the contribution that the member is likely to make in fulfilling the objectives of the TPS.
- The Board will comprise a maximum of 12 members drawn from across government and the international education sector.
- The primary role of the members will be to advise the TPS Director in relation to the determination of the risk component of the annual TPS Levy.

A TPS Secretariat to support the Director and Board

- A TPS Secretariat located within the Department will provide broad policy and administrative support to the TPS Director. The TPS Secretariat will not participate in the student placement process.

A placement facility: the service provider

- Students affected by a provider default will have access to a secure online information and access service, under the auspices of the TPS Director, to obtain information on the options for alternative courses including course costs and availability of places.
- The student will also be able to get information on the amount of their remaining unexpended pre-paid tuition fees from this service.
- Students will be able to select a course placement option through this process.
- Once confirmed as being enrolled with a receiving provider, the equivalent of the amount of the unexpended pre-paid tuition fee for that student will be paid to that receiving provider.
- In the event a student is unable to obtain a suitable alternative place through this mechanism, the student will be able to request a refund of the unexpended pre-paid tuition fee amount from the TPS Director. At the point a student is paid a refund, the Department of Immigration and Citizenship will be notified so that any visa compliance requirements can be assessed.

The TPS Levy

- The annual amount of each provider’s TPS Levy will be determined by the TPS Director following receipt of advice from the TPS Advisory Board.
- Contributions from all international education providers by way of the TPS Levy will be held in the OSTF which will be managed by the TPS Director and used for the purpose of funding the placement and refund activity of international students.
- The amounts of the TPS Levy will be published annually by the TPS Director, with the risk-rated component to be made through a legislative instrument.
How will the TPS operate?

Where a defaulting provider does not meet its refund obligations under the ESOS Act, that provider is required to notify the TPS Director within 3 business days of the default (or intention to default) and will have a period of 14 days to satisfy its tuition protection obligations in relation to an affected student. At the expiration of the 14 days the provider must notify the TPS Director within a further 7 days of the outcome. If the provider has not fully satisfied its obligations in relation to an affected student, or if it appears to the TPS Director that the provider is unlikely to satisfy those obligations, the student will have access to an online placement facility. If a student requires any assistance with the placement process, a TPS Administrator or service provider (to be engaged by the TPS Director) will be available to help the student. Providers with available capacity in that course category will have an opportunity to be listed by course on this online facility. The TPS Director will then allocate the student a period within which they are able to choose an alternative course from the options provided. The TPS Director may shorten this period, although the default period is set at 30 days, and the TPS Director may lengthen the period with the agreement of the student.

Should the student select a course within this period and the potential receiving provider accept the student, the receiving provider will receive the equivalent to the student’s unspent pre-paid tuition fees as a placement incentive. In the event the new course with the receiving provider costs more than the student is eligible to receive from the TPS Director from the unexpended pre-paid tuition fee amounts, the student will be required to pay the difference to the provider. Should the student not select a course during the period the student will be eligible to request a refund of the unexpended portion of pre-paid tuition fees.

A student’s visa status would not change during the placement and refund period. However where a student is refunded an amount of unexpended pre-paid tuition fees by the TPS Director, the Department of Immigration and Citizenship will be notified so as to assess that student for any visa compliance requirements.

Who is going to place the students?

Under the new TPS framework the primary responsibility for placement activity will move to the student themselves. The system being replaced allows the student very little if any input into their placement with a new provider through either a Tuition Assurance Scheme administrator or through the Assurance Fund Manager. Instead, students will be able to make their own choices about which study options best suit them following a provider default. This will also help streamline the placement process and remove the brokering process as a source of delay. If a student requires any assistance with the placement process, a TPS Administrator or service provider (to be engaged by the TPS Director) will be available to help the student.

What if a provider doesn’t want to take a student that has been displaced following provider default?

Under the new TPS framework, there will be no compulsory placements. A provider is under no obligation to accept a student that has sought placement with them following a default. Students will need to satisfy the accepting provider’s entry requirements and meet any gap in course costs.

In the event a student cannot find an alternative course placement option, the student will be eligible to request a refund of unexpended pre-paid tuition fees from the TPS, and will be required to comply with any relevant immigration requirements.
Does a student have to take an alternative course if there is a suitable option available?

The TPS is a placement model with refunds provided as a last resort. It is a condition of the student visa program that students maintain their enrolment and attendance, so the preferable outcome is that students receive the tuition for which they have come to Australia and paid for. The expectation is that students will accept an alternative place if one is available, for which they meet all the entry requirements and there is no cost disadvantage to them. However, the student will not be compelled to accept an alternative place and will be eligible for a refund of unexpended tuition fees. The student will need to confirm visa implications with DIAC but other options might include: enrolling in a completely different course, other visa types or returning home.

What is the TPS levy and how much will providers have to pay?

The annual TPS Levy is designed to support the OSTF which will be managed by the TPS Director for the purposes of student placement and refund activity. The TPS Levy will replace annual Assurance Fund contributions. As The TPS framework will commence on 1 July 2012, The 2012 Assurance Fund contribution will be the last made under the existing framework ahead of the first TPS Levy to be imposed in 2013.

The TPS Levy will be comprised of four-tiers:
- **An Administrative Fee** component payable by all providers except registered schools that have no international students. As established in the Bill, this incorporates a flat fee per provider as well as a per enrolment component.
- **A Base Fee** component payable by all providers except registered schools that have no international students. This fee recognises the reputational benefits to the sector of a robust and sustainable tuition protection framework. The Bill establishes that this tier of the Levy incorporates a flat fee per provider and a per enrolment component.
- **A Risk Rated Fee** component. Those providers which present the lowest level of risk will not be required to pay this component. This component recognises the risk of default associated with each relevant provider.
- **A Special Levy**, initially set at zero, would be charged only during times of more buoyant sector circumstances in order to build a ‘buffer’ in the OSTF in order to insure against future systemic shocks experienced by the sector.

How will risk be assessed?

The TPS Director will determine the risk rated component based on the advice of the TPS Advisory Board. Some providers will be exempt from paying this component on the basis that they are effectively publicly supported. For the remainder, they will be assessed against agreed risk factors which will result in provider-specific outcomes. Each year the TPS Director will publish, through a legislative instrument, the risk factors to be used in assessing each provider’s risk and this is then multiplied by the base multiplier of a percentage of tuition fee income as set by the TPS Director each year. The risk factors determined by the TPS Director and recommended by the TPS Advisory Board are designed to reflect the risk of default and therefore the risk of a call each provider represents on the tuition protection framework.
Why are public providers included in this system when they are exempt from the current system?

The inclusion of all providers in a universal tuition protection framework will benefit students affected by a closure by providing a larger pool of available placement options. It will also ensure all providers have an opportunity to place affected students and benefit from ongoing fees.

A universal system also indicates that all providers in the Australian international education sector stand behind the international education sector in Australia and are ready to assist if there is a closure.

The TPS Levy will be risk based and transparent. The TPS Director will set the levy based on advice from the representative advisory board.

Most importantly, all providers benefit from the reputational and marketing advantages to Australia from having a robust and sustainable tuition protection framework in place.

Are private providers still required to be a member of a Tuition Assurance Scheme?

No. The existing legislated requirement to be a member of a TAS will cease on 1 July 2012. All providers will pay an amount annually for tuition protection – the TPS Levy. This will vary for each provider as the risk rated component is determined according to each provider.

What if a provider has a bank guarantee, indemnity agreement, payment-in-arrears agreement or ministerial exemption in place?

All current exemptions from TAS and/or from contributing to the ESOS Assurance Fund will cease on 1 July 2012 and all providers will be required to contribute to the OSTF through the annual TPS Levy according to the different levy components as outlined above. If a provider has significantly lowered their risk through the acquisition of a bank guarantee, indemnity agreement or payment in arrears arrangement, these may be included by the TPS Director among the elements that make up the risk profile for the risk rated premium and that may then consequently reduce that providers risk rated premium. However, it should be noted that the TPS Director will set the TPS levy criteria during the latter half of 2012 ahead of the first levy being imposed in early 2013, and the criteria cannot be anticipated before then.

How will students benefit?

The replacement of the current TAS placement process with the student driven placement process will bring greater student choice, control and responsibility in the placement process.

Currently, students have their placement activity managed for them by the TAS or failing that, by the Fund Manager, with limited say in their alternative enrolment. The proposed TPS model will allow students to make a choice from available options within the placement period set by the TPS Director.

A more direct relationship in placements between affected students and prospective providers should lead to a more efficient and effective outcome for students and the sector as a whole. Students should benefit from more timely placements, or refunds where necessary, and a smoother transition to new providers.
What will happen to students currently seeking a placement or refund through the ESOS Assurance Fund?

Students affected by provider defaults up to 30 June 2012 will be managed under the current TAS and Assurance Fund arrangements. Any students who have not been placed or who have not been provided with a refund after 30 June 2012 will be managed by the TPS Director but under those existing arrangements. Provider defaults occurring from 1 July 2012 onwards will be managed under the new TPS arrangements.

Will students still receive a full refund of pre-paid fees if their provider closes?

No. A student will be eligible to receive a refund of the unexpended pre-paid tuition fees which the student has paid to that provider. That means that the refund arrangements are changing from full refund to partial refund, and will cover only that portion of tuition for which the student has paid but for which tuition has not yet been received. This reform is consistent with recommendation 17a of the Baird review. It recognises that the existing full refund burden on providers who have incurred expenses in delivering education services to overseas students to the point of default has been unreasonable and a disincentive to meeting their refund obligations under ESOS. It also recognises that students part-way through a course of study should be able to obtain credit for units at another education provider of similar standing.

Following default, the provider will have 14 days to fulfil its obligations to affected students. During this time the provider is able to either offer the student an alternative place that must then be accepted by the student or the appropriate refund amount. In the event the provider does not satisfy this obligation to an affected student, however, the TPS Director will facilitate access for the student to course placement as described above.

How can the sector be assured the new OSTF is more sustainable than the Assurance Fund and that its governance is transparent?

There are several factors that will make the new OSTF more sustainable than the existing ESOS Assurance Fund.

- The OSTF will be maintained by a TPS Levy which is payable by all providers in the international education services sector rather than by only approximately half the sector as has been the case under the ESOS Assurance Fund Contributions scheme.
- The amounts paid by providers under the TPS Levy will comprise four tiers (as described above) and be based on risk for each provider. The risk categories will be defined annually by the TPS Director and will be established in a Legislative Instrument.
- In establishing these risk categories, which will apply equally to all eligible providers, the TPS Director will have regard to the advice of the TPS Advisory Board – an independent body comprising Government, actuarial and sector representatives.
- The TPS Director will be able to introduce a Special Levy component at a time when the sector has the most capacity to absorb such a component represents. This will provide an additional method of insuring the OSTF against future systemic shocks as experienced by the sector in 2009-2010 and which placed significant pressure on the Assurance Fund.
- The TPS Director as a statutory appointment will be accountable for the management of the OSTF in accordance with the Financial Management and Accountability Act 1997 (FMA Act).

The TPS Director will report the outcomes for the OSTF as part of the Department’s Annual Report each year which will be tabled in Parliament. In addition, the provisions in the Bill ensure the monies standing...
to the credit of the OSTF, courtesy of the TPS Levy, are to be used for the purposes of facilitating the refund and placement of students.

To support the TPS, a suite of complementary initiatives was also introduced, as outlined below.

B. Other Measures

Partial Refunds

Why is the legislation changing student refunds related to a provider default from a full refund to a partial refund?

Currently a defaulting provider is required to refund a student all pre-paid fees regardless of how many units of study have already been delivered to the student. Consultation feedback during the Baird review indicated that this creates an unfair refund burden on a provider when students part-way through a course of study should be able to obtain credit for units in a similar course at another similar institution. The rationale is that the provider has incurred legitimate costs and students have still gained something of value for their prepaid fees for the part of the course completed, even if they have not yet completed the full course requirements for the qualification.

Full refunds obligations can be a disincentive for a defaulting provider to meet their refund obligations to students and where significant may trigger a closure in a provider experiencing financial difficulties. In recent times, this situation has exacerbated pressure on the existing tuition protection mechanisms.

To address these concerns, the Baird review recommended ESOS be amended to only refund the tuition fees for the portion of the course not delivered or assessed when the provider fails to meet their obligation (recommendation 17a).

This will strengthen the sustainability of the tuition protection arrangements in order that:
   • defaulting providers are more likely to meet their refund obligations in the first instance
   • students receive a timely refund which accurately reflects the education service that has been delivered
   • overseas students have realistic expectations of the refund owing to them
   • students affected by a closure are offered timely placements (as the equivalent of the partial refund owed to a student is paid to the provider who places the student as an incentive)
   • the overall refund demand flowing onto the sector-funded Overseas Students Tuition Fund is reduced so that the system operates more effectively and efficiently and is sustainable into the future without further government financial assistance.

What portion of pre-paid course fees do providers have to refund to students when required?

The ESOS Act has been amended to limit refunds paid to students to the portion of the course for which the student has paid but which has not been delivered or assessed in the event of a provider closure.

The TPS model outlined above states that when a defaulting provider fails to meet its refund obligation, the partial refund amount will be calculated and will be the amount available to place the student in an alternative course in the first instance, and failing that, to provide a refund.

The method of calculating refunds will be prescribed in a legislative instrument under the ESOS Act following further consultation with the sector.
What is the benefit of partial refunds to a provider?

Currently providers have to refund the full amount of course fees paid in advance by students. Together with limiting the collection of pre-paid fees, this amendment will reduce refund pressures on providers as they will no longer be required to refund the full amount of course fees paid by students.

If a business decision is made to close, providers will be in a better position to fulfil their obligations under the ESOS Act. Defaulting providers who do not meet their refund obligations will not meet the fit and proper test should they decide to seek registration again in the future.

What is the benefit to students of a partial refund?

Defaulting providers are more likely to meet their refund obligations and less likely to close without warning, but rather teach out courses or have their closure closely managed to minimise the impact on students. Students are also more likely to receive a timely refund from their provider as the amount for the provider to pay out will not be as large as under the current system. Students will benefit from reduced delays in the tuition protection processes to receive a refund.

The limiting of pre-paid tuition fees and requiring initial tuition fees to be placed in a separate account

The amended legislation introduces new limits to the amount of prepaid tuition fees a provider can collect from the student before they commence the course and, after commencement, before the second study period. It also requires non-exempt providers to keep initial prepaid tuition fees in a designated account before the student commences the course.

This measure will support the TPS by:
- ensuring providers are better able to meet their refund obligations to students
- improving outcomes for students affected by a provider default
- encouraging providers to establish sustainable business models
- reducing the potential refund liability on the TPS
- facilitating the DIAC visa application assessment process.

How will limiting the collection of pre-paid tuition fees work in practice?

The ESOS Act now limits the collection of pre-paid tuition fees. Providers can collect no more than 50 per cent of the total course cost before the student commences the course (or 100 per cent for short courses that fall within one study period of 24 weeks or less) and then, after the student commences, providers cannot require a student to pay any further fees until 2 weeks before the start of the second study period.

This measure means that with the exception of short courses, providers will no longer be able to collect up to 100 per cent of tuition fees up-front for courses. Providers will be required to define the length of a study period for a course, generally to reflect units of academic attainment, such as a semester. Study periods must be a maximum of 24 weeks in length. A study period may also include more than one consecutive short course, for example, two ten week English Language Intensive Courses for Overseas students if together they do not exceed the 24 week limit.
How will the requirement to place the initial study period fees into a designated account work?

This measure will require all except exempted providers to place all pre-paid tuition fees for the first study period into a designated account which can only be drawn down when the student’s first study period begins. Providers must establish a mechanism for keeping pre-paid tuition fees separate from day-to-day operating expense accounts, so that if a refund is payable before the student commences, the refund can be made in full and in a timely way without impact on the financial operations of the business or recourse to the tuition protection system.

The intention is that initial pre-paid tuition fees held in this account will not be available for the payment of debts of the provider including if the provider goes under administration. A provider must not mix pre-paid tuition fees held in a designated account with other money. Strong penalties will be imposed for non-compliance with this requirement. To minimise the regulatory burden, no routine regular reporting on this requirement by the provider is envisaged, but providers will be required to demonstrate maintenance of the designated accounts on request by the regulator.

How will these measures benefit students?

Currently, students may be required to pay up to 100% of course fees in advance. By only paying up to 50 per cent of fees upfront before the course commences the financial pressure for paying full upfront course fees will be removed (except for short courses of 24 weeks which can require 100 per cent of pre-paid fees. Providers will have an incentive to maintain student satisfaction after the student commences the course. Additionally, students should be refunded any pre-paid tuition fees in a timely manner if their visa is rejected or the student or provider defaults.

**Strengthening record keeping requirements**

The legislative amendments strengthen obligations on providers to keep up to date student records related to academic progress and contact details. The purpose of this measure is to:

- make it easier to contact students affected by a provider closure and to facilitate timely and accurate placement in an alternative course
- improve protection for the welfare of students, particularly those under 18 years of age
- ensure students are kept informed of course progress and to support the timely identification of and intervention by the provider where a student is not making good course progress, and
- improve provider business practice through effective student information systems.

**Aren’t providers already required to keep student records? How is this measure different from what is already required?**

Currently, there are record-keeping requirements in both the ESOS Act and the National Code. These measures strengthen the existing requirements to ensure records are up-to-date.

The new requirement on all providers is to regularly contact students to actively verify student contacts, including mobile phone numbers and email addresses. There will be penalties if a provider cannot demonstrate at least six monthly attempts have been made to update contact details. The objective is to facilitate better record keeping of student contact details so that providers and relevant government officials are able to readily contact the student should the need arise, for example, in the event of a provider closure, a critical incident, or to check that providers are meeting welfare obligations to younger students.
There are also specific new requirements and penalties related to ensuring academic records are kept up-to-date and ensuring the regulator is able to access these records at any time on request, including when a provider is under administration. This could be in the form of a routine request automated through PRISMS in a form prescribed in the regulations. Such a request would be targeted to providers who have a history of non-compliance or who are assessed as at greater risk of closure as part of risk assessment requirements introduced in the legislation in April 2011. This will encourage compliance with existing requirements and good practice in record keeping to assist with recognition of prior learning assessments and the timely placement of students in the event of a provider closure.

**How will this measure benefit providers?**

Providers will benefit from improved management of student information in a number of ways. It will support smooth day-to-day operations and dealings with students, support forward planning and early detection and intervention for students who may be at risk of failure to progress. It will also help with verifying information relevant to complaints and appeals processes, and enable the provider to contact students quickly when necessary.

**How will this measure benefit students?**

Students will be more easily contacted by their providers. They will be less likely to miss out on important information or opportunities and may have improved access to their attainment records. Students should experience a smoother transition and recognition of prior learning process if they change providers or are placed following a closure. Under 18 year old students will benefit from the strengthened compliance around welfare arrangements.

**Provider and Student Default Reporting Timeframes**

The legislation now sets out timeframes within which student and provider defaults need to be reported to the TPS Director. In the case of a provider default, it is 3 business days and for a student default, it is 5 business days.

These measures aim to:

- facilitate the prompt reporting of a default to the TPS Director so that the student placement and refund process can commence and
- ensure that providers are monitoring student commencements and follow up on students who do not start on their agreed course date.

**National Registration**

The other main reform being introduced by this Bill is national streamlined registration and regulation. This measure allows for the single, national registration of providers who operate in more than one location and who currently have multiple registrations. Assessment of the suitability and capacity of individual courses will still be at each location. National registration will help to ensure a smooth transition to the national regulation of providers. ESOS regulation is being transferred to the newly established national regulators TEQSA and ASQA for the higher education and VET sectors. This transfer is expected to be completed by 1 July 2012.
How will this measure work?

The national registration of providers will allow for the initial registration of providers and the ability to add a location to the scope of the existing registration. This process will be risk managed and may include all or any of the initial registration assessments at the new location. This will enable more flexibility by the regulators to reduce unnecessary regulatory burden. This will not limit the existing ability of the regulator to impose conditions or take compliance action against any aspect or all of the provider’s operations in response to assessed risk or non-compliance.

How will this measure affect a current provider’s registration?

This measure will apply to all new registration applications. For existing providers with multiple registrations this requirement will be grandfathered so that whenever a registration is renewed, a decision will be taken to merge an existing registration with another registration of the same provider if there is more than one. Providers will also be able to apply to merge registrations to one of their current registration numbers as determined by the delegate, in consultation with the provider and taking into account any risk factors.

How will national registration benefit providers?

Providers will benefit from a more streamlined and consistent process. As the one registered provider, they will no longer have to submit separate applications for registration with different processes every time they wish to set up in a new location.

What impact will national registration have on students?

Students will benefit by improved transparency of a provider’s registration on CRICOS. Prospective students will be in a better position to make an informed choice as to which provider they choose to study with. Students will also benefit from the improved risk management and regulation of multi-jurisdictional providers.

Former Accepted Students

The term “accepted student” will be extended to “former accepted student” to allow providers to give information under sections 19 and 20 about breaches of student visa or any other conditions students may have breached during their time with the provider. The jurisdiction of the Overseas Student Ombudsman will also be extended to accept cases from both accepted students and former accepted students of providers.

How will this amendment benefit providers?

Providers will be able to give information to the department about their students, regardless of whether the student is still studying with that provider or not. This will make it harder for students to neglect their student visa requirements by moving between providers to avoid being reported to DIAC.

How will this amendment benefit students?

Students of private providers will be able to lodge a complaint against the provider with the Overseas Student Ombudsman, even if they have ceased studying with that provider.
**Enforceable Undertakings**

Enforceable undertakings seek to protect the integrity of the international education industry as well as deliver timely and cost effective responses to breaches of the ESOS regulatory framework. They will become an important component in the suite of enforcement options available to influence provider behaviour and promote compliance.

Enforceable undertakings are promises a provider voluntarily makes to perform various tasks to address non-compliance with the ESOS Act. The regulator will only accept an undertaking where it is the most appropriate form of enforcement response and will achieve a more effective and long-term outcome than prosecution or administrative action.