



Australian Government

Department of Education and Training

ESOS legislative Framework and PRISMS


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Systems and Compliance Section

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Overview

- ESOS Act changes – December 2015 and July 2016
 - The National Code, Standards and Review
 - Education Agents
 - PRISMS
 - Current functionality
 - Recent changes
 - Useful features
 - Future changes
 - Contacts and resources
- 


The ESOS Legislative Framework

- ESOS comprises:
 - *Education Services for Overseas Students Act 2000*
 - *National Code of Practice for Providers of Education and Training to Overseas Students 2007*
 - ESOS Regulations 2001
 - ESOS (Registration Charges) Act 1997 and ESOS (TPS Levies) Act
 - ELICOS and Foundation Program standards
 - Institutions delivering to international students must be registered on CRICOS and must comply with all relevant legislation.
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ESOS Act – Immigration interface

- The ESOS framework supports data collection for migration purposes
 - ESOS also reflects education providers' responsibilities to support students under Migration legislation—for example:
 - attendance and progress
 - approving welfare arrangements for under 18s
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Reform of the ESOS Act – December 2015

- In December 2015, amendments to the *Education Services for Overseas Students Act 2000* (ESOS Act) were passed through Parliament.
 - Changes implemented immediately following the passage of the Act included:
 - Increasing flexibility in paying tuition fees up front
 - Removing the concept of a ‘study period’ from the ESOS Act
 - Simplifying reporting of student defaults and refunds
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Greater flexibility in paying tuition fees

- Students can now choose to pay more than 50% of their tuition fees upfront
 - Non-exempt (private) providers are still required to hold any tuition fees paid before a course commences in a separate account
 - Removal of restriction on subsequent payments of tuition fees - study period requirement from the ESOS Act
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Removing the concept of a 'study period' from the ESOS Act

- Definition of a study period has been removed from the ESOS Act (previously defined as a maximum 24-week period)
 - Gives students flexibility in paying fees
 - Written agreements must still set out tuition fee details
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Simplifying reporting of student defaults and refunds


- Providers only need to report on refunds to students:
 - for visa refusal
 - where there is no compliant written agreement
 - Providers now have a total of 35 days to report refund outcomes.
 - Timeframe for reporting changes to a student's enrolment has been extended from 14 to 31 days
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Reform of ESOS – Changes from 1 July


- Key changes implemented on 1 July 2016:
 - Streamlined provider registration processes for the national quality assurance agencies
 - Introducing internal review of registration decisions
 - Stronger quality assurance role for the Tuition Protection Service Director to advise ESOS agencies re providers



Key changes in registration process

- ASQA and TEQSA are ESOS agencies with direct powers under ESOS Act.
 - Providers apply directly to their ESOS agency for new registrations and renewal of registration, except schools.
 - Schools apply through their designated State authority (DSA).
 - ESOS agencies use a risk management approach in assessing applications.
 - No minimum registration and a maximum of 7 years so domestic and international registration periods can be aligned.
 - Processes for teaching out students after provider registration expires.
 - Introduction of an internal review process by ESOS agencies.
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ESOS Regulations

- 1 July changes to align with the ESOS Act
 - ESOS Agency
 - Student visa definition
 - CoE location change reporting requirement
 - Remove redundant data
 - DIBP office capture for CoEs and SCVs
 - OSHC data on CoEs (temporarily remains)
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Implementation of the reforms

- Fact sheets have been prepared for each sector and are available at:
www.internationaleducation.gov.au
- Feedback is welcome on implementation of the reforms



The National Code

The National Code is an enforceable legislative instrument and includes provisions on:


- Marketing, pre enrolment and written agreement
 - Use of education agents
 - Support for students adjusting to study here
 - Students as consumers
 - Student visa programme attendance and progress requirements
 - Staff, educational resources and premises.
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The National Code Review

- The Department is briefing Minister Birmingham on proposed next steps on revising the National Code
- Subject to the Minister's approval, a final draft will be prepared in consultation with key stakeholders.
- Aiming for full public consultation late this year, with calls for written submissions, similar to the process for ESOS Act changes.



National Code areas of interest

- more flexible online learning and innovative education delivery
 - streamlined attendance and course progress monitoring
 - clearer welfare arrangements for students under the age of 18
 - student transfers
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STANDARD 5 – Under 18

- ❑ **Documented procedures** for checking and approving accommodation and welfare arrangements (AWA) for students under 18
- ❑ **Confirmation of Adequate Accommodation and Welfare (CAAW)** via PRISMS notifying Immigration of the period of approval and any changes to the period
- ❑ **Current education provider** of a student is **responsible** for checking, approving and reporting on AWA for the current period they nominated; and it **remains responsible** even if the student's enrolment is suspended or terminated unless ***certain circumstances*** occur.

IMMIGRATION'S DEFINITION OF "GUARDIAN"

In relation to a child, "guardian" means a person who:

- (a) has responsibility for **the long-term welfare** of the child; and
- (b) has **all the powers, rights and duties** that are vested by law or custom in the guardian of the child, **other than**:
 - (i) the right to have the **daily care and control** of the child; and
 - (ii) the right and responsibility to make **decisions concerning the daily care and control** of the child.

(see Reg 1.03 of the *Migration Regulations 1994*)

WHAT ARE THE *CERTAIN CIRCUMSTANCES PROVIDERS MAY END WELFARE?*

- The student has left Australia; or
- The student has been enrolled by another provider; or
- The student has started to stay with a parent or a suitable relative agreed by Immigration; or
- The provider has notified Immigration it no longer approves AWA.

KEY OBLIGATIONS OF CRICOS-REGISTERED PROVIDERS

- 1) Implement all documented policies and procedures under the ESOS framework
- 2) Enter into compliant written agreements with students
- 3) Keep all prescribed records of students
- 4) Maintain and publish agent details
- 5) Give information to the Secretary about accepted students (through PRISMS)
- 6) Refund in accordance with the Refund Specification
- 7) Respond to RFI (request for information) from TPS Director
- 8) Pay ARC, TPS levy (and EMC if applicable) on time

RECORD-KEEPING OBLIGATIONS

PROVIDERS MUST KEEP RECORDS FOR THE FOLLOWING:

- 1) assessing transfer requests
- 2) handling complaints
- 3) making variation in enrolment load
- 4) student course progress
- 5) student attendance
- 6) student written agreements
- 7) assessing deferment or suspension requests
- 8) student current residential address
- 9) the amount of course fees paid
- 10) any amounts that have become payable


[Electronic records for the purpose of section 21 must be backed up]

DOCUMENTED PROCEDURES

PROVIDERS MUST IMPLEMENT DOCUMENTED PROCEDURES FOR:

1. assessing students' suitability for courses
2. processing refund claims
3. monitoring education agents
4. checking welfare arrangements
5. managing critical incidents
6. assessing transfer requests
7. handling complaints and appeals
8. monitoring course progress
9. monitoring attendance
10. managing staff resources
11. updating student contacts at least every 6 months

ESOS Fees and Charges


- Annual Registration Charge (Invoiced January)
 - Late Fees – if ARC paid late
 - TPS Annual Levy (Invoiced April/May)
 - TPS levy late fees
 - Reinstatement Fee (\$541)
 - Entry to Market Charge (3 invoices over 2+ years),
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Fee Information on CRICOS

What is important when entering fee information ?

Course fees and all the compulsory payments that a student must pay to the provider, whether directly (tuition fee) or indirectly (non-tuition fee), in order to complete the course should be entered.

Examples of compulsory payments in addition to tuition fees include:

- enrolment or administration fees and charges;
 - student health cover (where it is received by the provider);
 - costs of books, equipment and other materials needed to undertake the course (if not already included in the tuition fees, where the student pays the provider for them);
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Fee Information (continued)

- ancillary costs for fieldwork, excursions or laboratories, or any other amount that the student must pay to the provider in order to undertake the course
- boarding fees etc, if boarding is compulsory
- All changes to course costs must be reflected on CRICOS (through your ESOS agency)

NB: The course cost should not include the cost of optional or non-compulsory items/activities.



Standard 7 Student in a preliminary course requests a transfer

- Jenny is enrolled in a package of courses comprising
 - English language (six months) – Provider A
 - Foundation programme (12 months) – Provider B, and
 - Bachelor Degree (three years) – Provider C
- Jenny's principal course is the Bachelor's degree as this is the last and the highest qualification covered by her visa.
- Jenny seeks a transfer from Provider A to a different English Language course with Provider X.

WHAT PROCESS DOES JENNY, AND PROVIDERS A, B and C, NEED TO FOLLOW?



- Questions?



EDUCATION AGENTS


Institutions must:

- Enter into a written agreement with each agent they engage to formally represent them
- Ensure that the agreement:
 - a) specifies responsibilities of both parties and the need to comply with the requirements in the National Code
 - b) includes monitoring and corrective action processes, as well as termination conditions
- Ensure that their agent has access to up-to-date and accurate marketing information

Institutions must:

- Not enter into an agreement with or not accept students from an agent engaged in a conduct set out in Standard 4.3
- Take immediate corrective action when becoming aware of or reasonably suspect an agent being negligent, careless, incompetent or engaged in false, misleading or unethical advertising and recruitment practices
- Terminate the agreement with an agent when subsequently becoming aware of, or reasonably suspecting, the engagement by the agent or its employee or its sub-contractor, of a conduct set out in Standard 4.3
- Maintain a list of agents and publish it on the website (section 21A requirement)


Education Agents - Activity

- The Australian Government is supporting further work in the international education agent space through an expanding project with the International Education Association of Australia (IEAA).
 - IEAA is undertaking a feasibility study into the development of an industry-led education agent quality framework.
 - The Department is working towards making enrolment outcome - agent performance data available to providers.
 - Providers will need to declare that they have adequate privacy provisions in their agreements with agents to allow the data to be shared.
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PRISMS changes - Agents

Agency/Agent Smart Search:

A new smart search functionality provides additional information on the screen when a user tries to add a new agent into PRISMS. This will help providers make a decision whether an agent exists in PRISMS or a new agent is needed to be added to their agent list. Smart Search is available for the following fields when adding new agents


- Business Name
 - Suburb
 - Country
 - Given Name
 - Last Name
 - Email address
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Agent/Agency Performance Data

Proposed PRISMS reports - International education agent performance

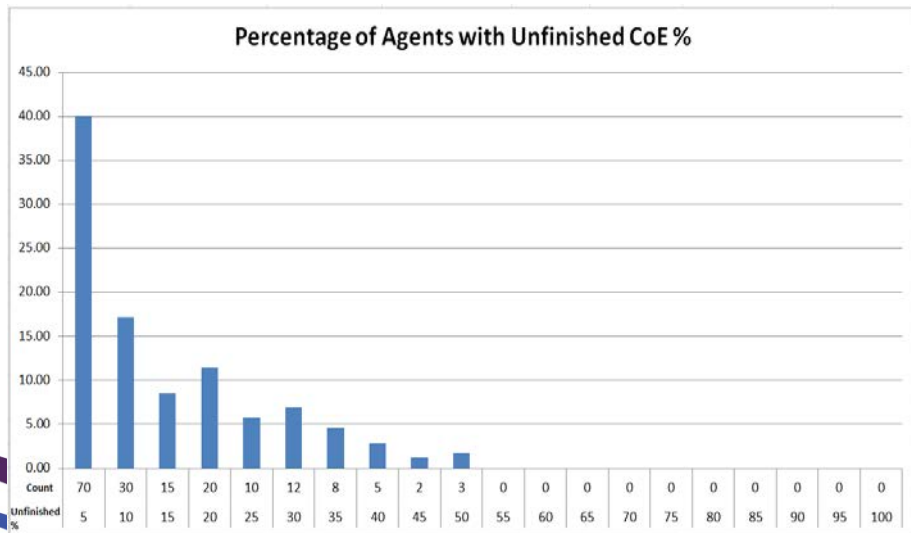
New reports for your own institution will display the number and percentage of 'Unfinished' CoEs as the key performance indicator by Agent or Agency.

CoEs are considered 'Incomplete/Unfinished' when they have an outcome of:

- **Transferred** – Transferred to course at another provider, Notified cessation of studies
 - **Provider Decision** – Non-payment of fees, Disciplinary reasons, Student no longer holding student visa
 - **Non Compliance** – Non-attendance at classes, Failed to meet course requirements
 - **Deferment** – Compassionate/compelling circumstances, Student misbehaviour
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Report 1 – Agent/Agency performance

- summary



Unfinished CoE Percentage	Number of Agents	Percentage of Total Agents
5	70	40.00
10	30	17.14
15	15	8.57
20	20	11.43
25	10	5.71
30	12	6.86
35	8	4.57
40	5	2.86
45	2	1.14
50	3	1.71
55	0	0.00
60	0	0.00
65	0	0.00
70	0	0.00
75	0	0.00
80	0	0.00
85	0	0.00
90	0	0.00
95	0	0.00
100	0	0.00
	175	100.00

Report 2 – Agent/Agency performance - detail

Agency	Total Number Of CoEs	Total Unfinished CoEs	Unfinished %
ABC Agency	2	1	50.0
DEF Agency	2	0	0.0
GHI Agency	3	0	0.0
JKL Agency	1	0	0.0
MNO Agency	5	1	20.0
PQR Agency	4	0	0.0
STU Agency	153	32	20.9
V Agency	188	23	12.2
WX Agency	27	8	29.6
YZ Agency	2	0	0.0

Report 3 – Agent/Agency reliance

Agency Id	Business Name	Count of CoEs	% of total
1	ABC Agency	2501	48.60%
2	DEF Agency	1500	29.15%
3	GHI Agency	500	9.72%
4	JKL Agency	496	9.64%
No Agency		100	1.94%
5	PQR Agency	22	0.43%
6	STU Agency	20	0.39%
7	V Agency	3	0.06%
8	WX Agency	3	0.06%
9	YZ Agency	1	0.02%

Report 4 – Agent involvement

CoEs WITHOUT Agent Involvement

Category	Total Number Of CoEs	Total Unfinished CoEs	Unfinished %
HIGHER ED	500	160	32
VET	0	0	0
SCHOOLS	0	0	0
ELICOS	300	110	36.7
NON-AWARD	200	42	21
TOTAL	1000	312	31.2

CoEs WITH Agent Involvement

Category	Total Number Of CoEs	Total Unfinished CoEs	Unfinished %
HIGHER ED	100	15	15
VET	0	0	0
SCHOOLS	0	0	0
ELICOS	300	110	36.7
NON-AWARD	0	0	0
TOTAL	400	125	31.25





Australian Government


Department of Education and Training

PRISMS



Why PRISMS ?

To support the Education Services for Overseas Students (ESOS) Act

- PRISMS Specifically
 - Stores information about registered providers and courses which is publicly available via the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)
 - Is a means for recording student visa grants. Students must have an approved Confirmation of Enrolment (CoE) record in order to obtain a student visa
 - Is the means for reporting student breaches. Students that do not comply with visa requirements are brought to Immigration's attention via PRISMS
 - Facilitates providers' compliance with the ESOS Framework, particularly Sections 19 and 20 (reporting)
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Why PRISMS ? (continued)

- Interaction with other systems
 - PRISMS is linked to other systems including Department of Immigration and Border Protection (DIBP) systems.
 - PRISMS receives some visa details from DIBP and processes them nightly against CoEs. This information may update the CoE status attached to the visa within PRISMS.
 - PRISMS uses web services to ensure data consistency across other systems (e.g. training.gov.au, [myskills](http://myskills.gov.au) and [Studyinaustralia](http://Studyinaustralia.gov.au))



Student Course Variations (SCV)

- Main types of variations (Reports)
 - Termination of studies
 - Non-compliance with visa conditions
 - Non-commencement of studies
 - Deferring/suspending
 - Changes to existing enrolment



Student Course Variation (SCV) Report Options

Quick Reference Guide

INITIAL SCV REASON	SCV REASON DETAIL	SCV SUB LEVEL DATA
Termination of student studies prior to completing the course (ie prior to the CoE end date) 19(1)(d)	Student completed course early Required to enter student's last actual day of study.	Non-payment of fees Require internal appeals process to be completed prior to report
	Student left provider – transferred to course at another provider May request entry of student's last actual day of study	Disciplinary reasons Requires internal appeals process to be completed prior to report
	Student notifies cessation of studies May request entry of student's last actual day of study	Student has died
	Provider decision to cease student enrolment Selection of this option required completion of next level of data and may request entry of student's last actual day of study.	No longer holding student visa
		Provider unable to deliver course

Non-compliance with student visa conditions 19(2)	Unsatisfactory attendance This option is not available for (a) providers of Higher Education courses; or (b) providers of VET courses who have implemented the Department of Education and Training/DIBP Course Progress Policy and Procedures. Requires both internal AND external appeals processing to be completed prior to reporting. Required to enter student's last actual day of study and comments.
	Unsatisfactory course progress Requires both internal AND external appeals processing to be completed prior to reporting. Required to enter student's last actual day of study and comments.


Non-commencement of studies 19(1)(c)	Select when the student has not – or will not – undertake any period of study with you in this enrolment. No additional information required to be entered.
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PRISMS change – Dec 2015

50 per cent validation rule (Section 27):

Amendments to section 27 of the ESOS Act enables providers to receive more than 50 per cent of the tuition fees for a course if either the student (or sponsor) chooses to pay more than that, or the course is no more than 25 weeks long.

Creating a new CoE and when adding tuition fee payment will be stopped in the following scenario:

- the initial pre-paid tuition fee amount is greater than 50% of the total tuition fee, and
 - the Student-CoE duration is more than 25 weeks, and
 - the student has not chosen to pay more than that, and
 - the date is before the student commences the course.
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PRISMS change Dec 2015

Student Default Reporting Changes:

Providers are not required to notify of student defaults, except if the default was due to a visa refusal or the provider did not enter a compliant written agreement with the student.

Providers are only be able to record a student default type of:

- Student (with Visa refusal)
- Student (section 47E , non-compliant written agreement)



PRISMS change Dec 2015

Student Default Reporting Changes:

For an existing student default record in PRISMS where the provider has not yet recorded an outcome and the student default type is visa refused or 47E non-compliant written agreement:

- The providers are still be required to report an outcome.
- When opening default record to view or report an outcome, the provider is presented with a new set of questions.



Under 18 Welfare

Institutions can now:

- create temporary welfare details for students that have already commenced study
- record secondary welfare details where the parent/guardian is taking responsibility for a student and the provider takes responsibility again after that
- indicate an end to welfare responsibility for students
- extend the length of a welfare arrangement in place for a particular CoE




PRISMS change July 2016

Institutions will now apply directly to the ESOS agency registration and renewal on CRICOS.

PRISMS will send automatic notices to providers and cc States for initial registration, registration renewal, sanctions, course/location additions

Providers that do not apply for renewal will be set to teach out, meaning:

- providers will not be able to create any more CoEs.
 - all existing enrolments other than 'studying' CoEs will be cancelled.
 - existing 'studying' CoEs in schools will only be able to study until the end of the calendar year of registration.
 - after the teach out period ends, the provider will be cancelled.
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PRISMS change July 2016

Student Gender :

In July 2013, Australian Government released guidelines on the recognition of Sex and Gender. In accordance with the guidelines the PRISMS provides the following options when collecting gender information of a student;

- Male (current option)
- Female (current option)
- Indeterminate (third option)



Alerts

Alerts are shown at the user's home page.

- **Outstanding CoEs Tab:** These are the CoEs that have a status saved and are waiting to be submitted or they are pending and are waiting to be approved or cancelled
- **DIBP Visa Action Tab:** DIBP sends updates to PRISMS of any student visa status changes. Some of these cause CoE status changes that may be of interest to providers and require further action.
- Any visa updates for your provider that may need action are displayed on the DIBP Visa Action tab. Double clicking on a record will open the DIBP Visa Action screen for that record.




Alerts (continued)

- **Welfare Arrangements Tab:** The message on the tab will advise the user to how many current or future Welfare Arrangements are current for the provider.

Details on all the current and future Welfare Arrangements can be exported to a spreadsheet if required by clicking on the “Welfare Arrangements Export” link in the message.




Uploads


- **Payment:** This function is available to those with the following access levels CoE Administration and CoE Create.
 - **Course costs:** This function is available to only those Users that have been granted access by their RSD (Registration Signatory Delegates). A request to update course cost in bulk via this function will not automatically update the cost on CRICOS. Your request is placed in a Queue awaiting approval from your designated authority.
 - **Student Details:** Student Contact Upload function is available to all education providers which allows them to update student contact details in bulk.
 - **Linking Courses to locations:** Providers have the ability to submit requests in PRISMS for attaching Courses to Locations or removing Courses that are already attached to a Location. The requests are submitted to the Provider's Responsible Regulator and must be approved to take effect.
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Useful Reports


The following Reports are available for viewing on screen in your Web browser.

- **CoE Statistics report** – Creates an on-screen report with the CoE Statistics for the provider.
 - **Student Course Variation (SCV) Statistics report** – Creates an on-screen report with the SCV Statistics for the provider.
 - **Individual Provider report** – Creates an on-screen Provider Report with a summary of the provider's details and a list of all Registered courses.
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Useful Exports

- **Course export** - Provides a list of all the CRICOS registered, cancelled or suspended courses and their associated details. It allows you to see if your course details are correct and up-to-date.
 - **CoE and Student export** - Allows you to select and view CoEs according to their status and/or course of study. Each CoE at 'Studying' status should represent a student currently attending a class at an international education provider.
 - **Course Location Export** – Creates a data export of all courses and their current linked locations as they currently exist in PRISMS. It is the responsibility of each provider to review this export and ensure that all courses are assigned against the correct locations where they are currently being held.
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Future PRISMS enhancements

- Bulk reporting of CoE Location changes
 - Ability to email a PDF CoE to a student when approved
 - Validation to stop CoEs being longer than a course is registered for
 - New access for CoE Administrators to agent performance data.
 - Enhanced ILinkages to ASQA, TEQSA and Training.gov
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FURTHER INFORMATION

ESOS Framework

Website: www.cricos.education.gov.au

www.internationaleducation.gov.au

Email: ESOSpolicy@education.gov.au

Phone: 1300 615 262

PRISMS

Website: www.prisms.education.gov.au

Email: prisms@education.gov.au

Phone: (02) 6240 7647

Annual Registration Charge

Website: www.internationaleducation.gov.au

Email: esosarcmailbox@education.gov.au

Phone: 1300 793 993 (available only for Jan – April each year)

- Questions?

