



Feedback on Proposed ESOS Course Exemption Instrument

6 April 2021

Overview

TAFE Directors Australia (TDA) thanks the Department of Education, Skills and Employment for the opportunity to provide feedback on the proposed ESOS course exemption instrument. The current submission builds on the observations and recommendations made by TDA and its members on proposed amendments to the ESOS Act to improve the regulation of supplementary courses on 12 October 2020.

As explained in the October submission, TDA and its member institutions support the objective of the proposed changes to the ESOS Act and confirms the benefits it would bring to international students and employers. However, we also see significant risks to the integrity of the international student experience if there is not care in its introduction.

Beyond the questions posed by the Department of Education, Skills and Employment in the consultation paper, TDA has also considered the long term impacts of the reform and is proposing ways to ensure that the changes introduced to the ESOS Act are framed in a way that mitigates the integrity risks to Australia's international education system in the long run. This is why we renew our call to:

- require the CRICOS registration from providers which will deliver the supplementary courses in order to ensure that they have a solid understanding of the requirements to be met by international students both from an educational and immigration perspective;
- introduce limits on the volume of supplementary learning both in the Higher Education and VET sectors to limit adverse effect on the primary course;
- review the current data collection system to ensure that the Government and legislators have the means to monitor the implementation of the policy change;
- implement a clear consultation mechanism for determining future supplementary courses; and
- implement supplementary changes to VET qualifications policy that otherwise insists on credit recognition across any Registered Training Organisation (RTO) of the supplementary courses.

Comments on the proposed course list for exemption

After consulting with members, TDA suggests the following units of competence for the Department's consideration for ESOS exemption:

Unit Code	Unit Name	Required by industry for employment?	Relevant industry
SSSIT0001	Introduction to Barista Skill Set	Preferred	Hospitality
RIIWHS202	Enter and work in confined spaces	Yes	Building and Construction
AHC30616	AusChem AgVet Chemical Users Course	Yes	Horticulture & Agriculture
TLILIC0003	Licence to operate a forklift truck	Yes	Horticulture & Agriculture

Maintaining the CRICOS requirement for providers entitled to deliver supplementary courses

As reminded by the Department in the consultation paper, the ESOS Act “exists to quality-assure Australia’s international education offering and upholds the integrity of the student visa system”. This is why TDA calls for the supplementary courses to continue to be delivered to international students by registered CRICOS providers only.

The risks of opening the international student market to providers that don’t need to meet the CRICOS requirements are significant, as follows:

- non-CRICOS registered providers are unlikely to be aware of the specific circumstances limiting the enrolment of international students in supplementary courses and may inadvertently lead students to violate visa conditions;
- international students may not be aware that they are violating their visa conditions and obligations towards their primary provider;
- Non-CRICOS providers are unlikely to have the support mechanisms in place expected for dealing with the international student cohort; and
- Regulators would have less information and tools at their disposal to target compliance to protect the education integrity of courses for international students.

CRICOS providers have an obligation to understand the inter-relationships between the education and immigration system. With a significant number of registered CRICOS providers on the market, there is no risk of undersupply of supplementary courses and their experience of working with international students will help ensure compliance and relevant support for this specific cohort.

Limiting the study load of supplementary courses both in Higher Education and VET

In the consultation paper, the only sub-sector with proposed limits to the volume of learning is Higher Education.

As in its previous submission, TDA proposes a cap on the volume of nominal hours per calendar year – not units of competency. As outlined in our submission, some units of study can have high study loads than others. To ensure international students do not over-commit themselves we recommend again that there is a cap on the nominal hours allowed for supplementary courses.

Review the data collection on supplementary courses

As discussed in our previous submission, it is critical to maintain an oversight on the implementation of the policy change. Student level tracking will be crucial to ensuring that compliance is met.

TDA recommends that:

- PRISMs should be used as the tool to record supplementary courses delivered by CRICOS registered providers (on the grounds of our recommendation that only CRICOS providers can deliver supplementary courses); or
- Alternatively, mainstream VET reporting must be able to record and separately identify this activity for each international student, which can be facilitated through the USI.

We also renew our call to discontinue the concurrent COE functionality in PRISMS as the current functionality is being exploited by some providers enrolling students in new 'primary' courses in advance of the formal release agreement required from the originating provider. The need to facilitate supplementary courses which triggered the PRIMIS change can be monitored in different ways, as above.

Implement a consultation mechanism for determining future supplementary courses

In implementing policy changes, it is important to consider long term implications. TDA recommends to consider the specific consultation mechanism that would ensure that there are clear ways in which stakeholders are consulted when considering future courses to be exempted from the ESOS Act.

The current consultation paper stipulates that "the department may consult providers, industry and regulators when updating the instrument". TDA calls for a stronger commitment to consultation with key stakeholders and clarifying the way in which the consultation will take place.

Broader Impact on VET International Sector

As described at length in the previous submission, due to national portability of VET qualifications, learning certified as competent by any RTO is equal in value across any provider and therefore must stand as credit for the student on transfer between providers. Assuming that the list of exempted units of competency is extended with time, the compulsion to credit units from other providers allows students to substitute supplementary courses into their primary course, presumably at a lower price and compromising the integrity of student study load requirements and the standing of the primary CRICOS provider.

TDA recommends that before the scheme is implemented each CRICOS VET provider is given the option whether or not to recognise the unit for the primary course. This may require changes to the RTO standards.

TDA would also like to point out to other wider changes that need consideration within the international VET market. VET international education policy should allow for more diversity in qualifications in order to meet the needs of overseas students. Current VET qualifications are constructed on the needs of Australian industry and employment conditions and occupational regulation, which do not necessarily align with the needs of international students or the capabilities they would seek to repatriate to their home country. Distinct qualifications for CRICOS purposes should be able to be developed for delivery to international students, similar to the approach in higher

education. This would add diversity to the international VET sector and give conditions that would promote excellence in operations, similar to the aspiration of Australian skills ministers for the Australian VET sector generally.

These are issues that need broader consideration across the VET and International Education sectors and TDA will be discussing them at length in its submission to the consultation on the International Education Strategy to be submitted shortly.

Summary

In conclusion, TDA calls for a careful and a monitored opening of the system and ways the changes affect the outcomes of the principal course, which is the key purpose of international students' presence in Australia. While there is undeniable value in allowing international students to undertake supplementary study, it has to be done in a way that doesn't put the quality and integrity of the current system at risk.

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