



# The Canberra Training School Pty. Ltd. T/A CANBERRA BUSINESS AND TECHNOLOGY COLLEGE

## ESOS Legislative Framework: Your rights and responsibilities under the law

Source: <https://internationaleducation.gov.au/regulatory-information/pages/regulatoryinformation.aspx>

### Education Services for Overseas Students Act 2000

The *Education Services for Overseas Students Act 2000* (ESOS Act) sets out the legal framework governing delivery of education to international students in Australia on a student visa. The Australian Government, through the Department of Education and Training, administers the ESOS Act and its associated instruments.

The *Education Services for Overseas Students Act 2000* (ESOS Act) governs:

- the registration process and obligations of registered international education providers
- the [Tuition Protection Service](#)
- enforcement and compliance arrangements.

In December 2015 changes to the ESOS Act passed by the Australian Parliament removed unnecessary red tape and streamlined the Act with domestic quality assurance frameworks administered by the [Tertiary Education Quality and Standards Agency \(TEQSA\)](#) and the [Australian Skills Quality Authority \(ASQA\)](#).

Three measures in the new legislation came into effect on **14 December 2015** to directly reduce administrative costs for education institutions. For more information see fact sheets outlining the changes to:

- [Removal of study periods](#)
- [Reporting student defaults and refunds](#)
- [Flexibility in paying tuition fees upfront.](#)

Other changes that simplify registration and regulatory processes take effect from **1 July 2016** and can be found here:

- [Registration fact sheet for higher education, foundation programs and ELICOS](#)
- [Registration fact sheet for VET courses and ELICOS](#)
- [Registration fact sheet for schools](#)

### National Code of Practice for Providers of Education and Training to Overseas Students

The [National Code of Practice for Providers of Education and Training to Overseas Students](#) (the National Code) provides nationally consistent standards for the conduct of registered providers and the registration of their courses.

The standards set out requirements and procedures to ensure providers of education and training courses to international students can clearly understand and comply with their obligations under the National Code.

### ELICOS Standards

English Language Intensive Courses for Overseas Students (ELICOS) are central to Australia's international education sector. Students come from overseas to study the English language for a variety of reasons. Some need to improve their English for work or career purposes, some have a personal interest in becoming fluent in English, and some intend to travel. Other students may want to continue their education in English, either in Australia or elsewhere, and need to develop the necessary language skills to undertake further study. The ELICOS Standards enhance Australia's reputation as a provider of world class international education and help attract high quality international students to Australia.

The ELICOS Standards became an enforceable legislative instrument under the Education Services for Overseas Students Act in 2011. The ELICOS Standards provide a basis on which regulatory authorities may register a provider on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS), under the ESOS Act, to deliver an ELICOS course. ELICOS providers wanting to be registered on CRICOS need to meet the Standards.

The [current ELICOS Standards 2011](#) are available here.

The department undertook public consultation on proposed revisions to the ELICOS Standards from 14 July 2017 to 11 August 2017. [Submissions received](#) can be found on the departmental website.

On 11 October 2017, the Education and Training Minister's delegate approved revised ELICOS Standards. The ELICOS Standards 2018 will apply to new and existing providers from 1 January 2018, and to transitioning providers from 1 March 2018.

The main change amends the definition of an ELICOS course to bring all intensive English language courses registered on CRICOS within the scope of the ELICOS Standards. The *ELICOS Standards* will apply to providers who deliver courses which are solely or predominantly of English language instruction to student visa holders in Australia, including vocational education and training (VET) English courses.

From next year providers will have to meet minimum requirements relating to course contact hours, teacher qualification and staff-student ratios.

#### Implementation

Providers delivering English language courses which are not currently registered as ELICOS will be informed by the regulator (ASQA or TEQSA) if they need to transition to ELICOS delivery and start meeting the requirements of the ELICOS Standards. Existing ELICOS providers will need to meet the standards from 1 January 2018. Transitioning providers will be given until 1 March 2018 to meet the standards, with the following exceptions:

- Transitioning providers will be given an extra year, until January 2019, to meet requirements relating to Teaching Staff Qualifications (Standard 6.4).
- Transitioning providers will be permitted to continue teaching students enrolled prior to 1 March 2018 until the end of that student's English course, to minimise disruption to students.

The [ELICOS Standards 2018](#) is now available on the Federal Register of Legislation



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## Education Services for Overseas Students Regulations 2001

The *Education Services for Overseas Students Regulations 2001* (ESOS Regulations) support the implementation of the ESOS Act by setting out:

- information that must be entered on the register about the provider and each course by location
- student details that providers must include on the Provider Registration and International Student Management System (PRISMS)
- information about students that providers must give relating to student visa conditions
- penalties and infringement notices
- student records that a provider must keep.

From 1 July 2016 the ESOS Regulations will be updated to reflect amendments to the ESOS Act and to remove duplicative or unnecessary data items, including:

- details of the Immigration office where the student's application for a student visa was made
- institutions' fax numbers.

The reference in the ESOS Regulations to Overseas Students Health Cover (OSHC) information has been removed as this is a requirement under the Migration Regulations. More information on changes to the way OSHC is verified by the Department of Immigration and Border Protection is available from their website: <https://www.border.gov.au/>.

The Regulations will also now require a provider to inform the ESOS agency of any changes in course location to ensure course location data is up-to-date.

## Education Services for Overseas Students (Registration Charges) Act 1997

The *Education Services for Overseas Students (Registration Charges) Act 1997* imposes registration charges in relation to Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). All registered providers are liable to pay an annual registration charge for the year. The relevant charges are detailed in this Act. New entrants may pay an entry to market fee for the first three years.

## The Education Services for Overseas Students (TPS Levies) Act 2012

The *Education Services for Overseas Students (TPS Levies) Act 2012* contains provisions to require providers to pay fees and levies to fund the Tuition Protection Service. The first annual TPS levy was applied in 2013.

## Key Legislative Instruments

*Education Services for Overseas Students (ESOS Agency – Aviation Education and Training Providers) Determination 2016*

This legislative instrument appoints the National VET Regulator, ASQA, as the ESOS agency for some non-VET aviation providers until the end of March 2018, while those providers transition to new regulatory arrangements under the amended ESOS Act.

*Education Services for Overseas Students (Calculation of Refund) Specification 2014*

International students are entitled to receive a refund from their provider if:

- the provider defaults
- the student's visa application is refused.

The refund instrument sets out [requirements for refunds](#) and are available. Education providers cannot retain more of students' unspent tuition fees than the refund instrument or their written agreement with the student allows.

Students will be eligible for a refund of 'unspent tuition' fees. This specification outlines a method for working out the amount of 'unspent tuition fees' for the purposes of calculating refunds.

