



Requirements for registration on CRICOS

Information for new providers of education and training to overseas students

If you intend to offer education or training services to international students studying in Australia on student visas, you are required to comply with the ESOS legal framework and register on the **Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)**. The following information is intended to advise **new providers** of education and training courses about the Australian Government requirements necessary for registration on CRICOS.

The *Educational Services for Overseas Students (ESOS) Act 2000*

(<http://www.comlaw.gov.au/Details/C2011C00472>) sets out the legal framework governing delivery of education to overseas students studying in Australia on a student visa. The Australian Government, through the Department of Education, Employment and Workplace Relations (DEEWR), administers the ESOS Act and its associated instruments.

The main objectives of the ESOS Act are to:

- a) provide financial and tuition assurance to overseas students for courses for which they have paid;
- b) protect and enhance Australia's reputation for quality education and training services; and
- c) complement Australia's migration laws by ensuring providers collect and report information relevant to the administration of the law relating to student visas.

Under the ESOS Act, providers applying for CRICOS registration must be Australian residents, fulfil a fit and proper person test and demonstrate compliance with the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students* (National Code)

(http://www.aei.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/National-Code/Documents/National_Code_2007_pdf.pdf).

Recent amendments to the ESOS Act have further strengthened the registration process including:

- two new criteria, enacted in March 2010, state that the principal purpose of the provider must be to provide education and the provider must demonstrate capacity to provide education of a satisfactory standard and
- requirements enacted in April 2011 state that regulators have a specific focus on business sustainability and use a consistent risk management approach in assessing providers for registration and ongoing regulation, and for limiting the period of registration to no more than five years.

Please note: separate CRICOS application is required for each state/territory.

To become registered to deliver to overseas students, an organisation must first be approved by the Designated Authority (DA) under the relevant quality assurance framework or standards. For example, a training provider is first approved as a registered training organisation (RTO) or as a higher education provider, and has the qualifications/courses it wishes to deliver to overseas students on its scope of registration. An applicant can lodge an application for CRICOS approval concurrently with an application for RTO registration.

The DA is determined by the sector and jurisdiction a provider operates in. Please refer to the link below to determine the relevant DA in your state/territory:

- [http://www.aei.gov.au/regulatory-information/Provider-Registration/AustralianSkills%20QualityAuthority\(ASQA\)/Pages/AustralianSkillsQualityAuthority\(ASQA\).aspx](http://www.aei.gov.au/regulatory-information/Provider-Registration/AustralianSkills%20QualityAuthority(ASQA)/Pages/AustralianSkillsQualityAuthority(ASQA).aspx)

Under the ESOS legislative framework, the DA is responsible for the **first stage of the CRICOS registration** process. This involves providing information to and advising any person or organisation interested in CRICOS registration in the first instance, facilitating that application through the provision of appropriate forms and information and assessing the merits of the application. The DA usually applies a charge to the processing of applications for CRICOS registration. If the DA determines that the application has merit, it registers the provider as having 'provisional' registration on CRICOS. The DA will recommend a maximum cap on the number of international students the provider may enrol, the period of registration of no more than five years, and any other conditions on registration deemed appropriate. At this point, **the second stage of CRICOS registration** begins which is the responsibility of DEEWR.

The second stage involves the Secretary of DEEWR, or the Secretary's delegate, checking the provider's compliance with all outstanding matters prior to registration, such as requirements related to tuition protection. DEEWR undertakes its independent assessment and due diligence process in addition to the process undertaken by DAs. It should be noted that a recommendation by a DA does not guarantee CRICOS registration. The DEEWR delegate may accept or modify the DA recommended conditions on registration or impose its own conditions on a provider's registration based on this assessment, including the maximum number of international student enrolments, the period of registration of no more than five years, and any other conditions deemed appropriate.

Although DEEWR endeavours to action every matter as soon as possible, each matter is determined on a case by case basis depending on the complexity, risk profile and various other considerations in relation to the organisation. It is, therefore, difficult to provide a timeframe for processing of an application. Additionally, once a decision to register a provider is taken, the provider will be required to pay DEEWR charges, which are separate to any charges imposed by the DA.

The Tuition Protection Framework - Exempt and Non-exempt Providers

There are three layers of tuition protection under the current ESOS Tuition Protection Framework. The first layer is an obligation on providers who default on the delivery of a course to place (if accepted by the student) or refund affected overseas students. The second layer, where a defaulting provider does not meet their refund obligations to students, is the **Tuition Assurance Scheme (TAS)**. TASs are industry run schemes established in accordance with the *Education Services for Overseas Students Regulations 2001* and approved by the Minister. The role of a TAS is to provide students with a suitable alternative course offered by another member of the same TAS that does not require the student to pay an additional amount to undertake part of the alternative course for which the student paid money to the defaulting provider. **The ESOS Assurance Fund** is the third and final tier of the existing tuition protection framework and operates to effectively purchase a place for a student affected by a provider default or, failing that, to pay that student a refund. The ESOS Assurance Fund is sustained by industry contributions which are agreed by a Contributions Review Panel and paid by all non-exempt providers each year.

As a new provider, you will need to determine whether you are an exempt or a non-exempt provider for the purposes of the Tuition Protection Framework. Exempt providers do not have to be a member of a TAS and generally do not pay a contribution to the ESOS Assurance Fund.

Exempt providers may include organisations administered by a state/territory education authority or a non-government school or university entitled to receive recurrent funding from the Australian Government. It may also include providers for whom joining a TAS is not a viable option and they have an approved alternative form of assurance, such as a bank guarantee or who opt to collect all tuition fees from their students after the students have completed either all or part of the course – an arrangement known as ‘payment in arrears’.

Non-exempt providers include those that do not fit the exempt criteria and are required to be a member of a TAS and to contribute to the ESOS Assurance Fund.

Please refer to Section 24 of the ESOS Act and Regulations 3.11, 3.17 and 3.18 of the *Education Services for Overseas Students Regulations 2001* at the following website for further information on the criteria and requirements related to exemptions: <http://www.comlaw.gov.au/Details/F2009C01291>.

Further information

It is important to be aware of the full requirements of providers registered on CRICOS, and you are advised to consult the DEEWR website or by telephone using the ESOS Hotline number (02) 6240 5069.

