



**CFMEU SUBMISSION TO REVIEW OF EDUCATION SERVICES FOR OVERSEAS STUDENTS (ESOS) ACT
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By email: esosreview@deewr.gov.au

2 November 2009

A handwritten signature in black ink, appearing to read 'John Sutton'. The signature is fluid and cursive, with a large initial 'J' and 'S'.

John Sutton

National Secretary

Construction, Forestry, Mining & Energy Union of Australia

A series of seven thick, horizontal black bars used to redact text. The bars vary in length and are stacked vertically, completely obscuring the text underneath.

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1. Introduction

The Construction, Forestry, Mining and Energy Union of Australia, (CFMEU) welcomes the opportunity to make a submission to this Review. The CFMEU consists of three Divisions namely the Mining and Energy Division, Forestry and Furnishing Products Division and the Construction and General Division. We are the major union in these industries and represent approximately 110,000 members.

The CFMEU supports a strong and sustainable international education industry in Australia that treats international students with respect and dignity, protects their rights and the rights and interests of Australian residents (citizens and permanent residents) and provides real and lasting benefits to Australia.

Regulation of the international students sector involves regulation of:

- the education and training providers through the ESOS Act and associated regulations, the subject of this Review;
- the work rights of international students as regulated through the Migration act and regulations; and
- trade qualifications through provisions of Trades Recognition Australia (TRA), including the number of hours of “work experience” required by TRA of overseas students seeking the trade qualification need for skilled PR visas under the General Skilled Migration program.

Our concerns regarding regulation of this sector most directly relate to the second and third of these areas above. Nevertheless it might be helpful to make some more general points for the Review based on the Discussion questions set out in the Review’s Issues Paper dated September-2009.

The ESOS Review Fact Sheet on the AEI website also states that “feedback from the International Students Roundtable held in September 2009 is also being considered as part of the Review”. We also comment on some issues raised in this Roundtable, though some may not strictly be in scope to this present Review.

2. General comments

1. **An increasing number of international students work both lawfully and unlawfully in areas covered by our union, particularly construction.**

This includes those working simply to support their study in Australia, those undertaking work as part of their training requirements for an Australian qualification, and graduates seeking work required to qualify for permanent residence or PR visas.

In recent months, a disturbing number of overseas students have been detected in Sydney and Melbourne working in breach of their visa conditions on construction sites. This is happening at a time when many Australian construction workers are unable to find work.

On several Sydney building sites, it was found that hundreds of Chinese temporary workers including overseas students, most of whom could not speak English, had not been paid their wages for six weeks. Among the cocktail of abuses discovered were that all these workers had ABN numbers (sham subcontracting), no workers compensation insurance coverage, no award conditions, no superannuation and rates of pay barely half what they were entitled to.

2. Data on overseas students in Australia needs to be improved

This issue is not explicitly mentioned in the terms of reference but it is very important. At the moment it is not possible to determine the size of the international education sector in terms of the most basic issue, namely the actual number of students in Australia.

There are apparent inconsistencies in data from various authoritative sources on the number of overseas students in Australia at any one time. The two sources on the number of international students in Australia are DIAC's stock data and AEI's figures. According to DIAC stock data ¹, in 2008 the average number of international students in Australia was 324,600 while according to AEI data cited by Access Economics, the number of overseas students (not student enrolments) in Australia in 2008 was 435,300² – 110,700 or 34% more than the DIAC stock figure.

The CFMEU is aware that the ABS uses the DIAC stock figure for overseas students in its estimation of the economic value of overseas students to Australia. This suggests that the higher AEI figures for the number of overseas students in Australia overstates the true number of such people in Australia. This basic data issue should be cleared up.

3. The work rights attached to student visas should not be increased from their current levels (20 hours/week), without an independent and transparent review of the impact of these work rights on Australian resident job seekers, especially young people.

The Communique from the September 2009 International Student Roundtable says that Government:

Could increase the work limit to 25 hours per week, so they can meet their financial demands.³

The Communique does not mention the potential impacts of such a measure on the Australian workforce. The CFMEU rejects any such proposal without an impact study.

¹ DIAC, *Immigration Update July to December 2008*, Table 4.1, p40.

² Access Economics, *The Australian education sector and the economic contribution of international students*, Report for the Australian Council for Private Education and Training, April 2009, Table 6-7, p24.

³ International Student Roundtable, Parliament House, Canberra. Communique, 15 September 2009. Attachment to Media Release by The Hon Julia Gillard, Deputy Prime Minister, "Government welcomes Roundtable results", 15 September 2009.

An impact study should determine whether these rights are appropriate to the recession job market; the extent to which they disadvantage Australian residents especially young people, in terms of job opportunities, wages and training opportunities; and whether increased student work rights are compatible with the objective of full-time education and training for overseas students.

The CFMEU also questions whether it is prudent and sustainable for the international education sector to rely on overseas students who need to work in Australia, “to meet their financial demands.”

4. The government must break the nexus between onshore training courses and PR visas.

The CFMEU strongly supports the position espoused by the Immigration Minister, namely that the granting of a overseas student visa confers a right to study in Australia but no automatic right to be granted a PR visa to stay in Australia permanently.

It is vitally important that this distinction be maintained and communicated effectively to overseas students and the international education sector.

5. There must be a review of whether VET “trade-level” courses involving workplace-based training are an appropriate form of training to be offered to overseas students.

The current TRA requirement that graduates from Certificate III “trade” courses must acquire 900 hours of “skilled work experience” in the Australian labour market is supportable on training grounds, if properly regulated – which it is clearly not at present. But requiring employment-based experience for overseas students and graduates is completely inappropriate in times when job and training opportunities for young Australians are contracting, as in the current Australian labour market.

The growth in the number of overseas students and graduates in Australia with work rights has taken place at precisely the time that the job market for young people in Australia has collapsed following the GFC.

Young people have borne the brunt of the job market downturn since the GFC struck. Between June 2008 and June 2009, the number of young people aged 15-24 employed in Australia fell by a massive 101,000 persons (ABS Labour Force Survey, original data). The unemployment rate in this age group has increased sharply, from 8.6% to 11.6% in the period covered.

In other words, while the Australian job market for new entrants has contracted by over 100,000 in the past year, the Australian government has continued to grant an increasing number of overseas student visas, particularly in PR-driven VET courses that require the students to find work to get their qualification and PR visas⁴. As well, by June 2009 it had issued more than 45,000 visas with full work

⁴ AEI data shows growth in total overseas student enrolments of 20.3% in year to date July 2009, and 39.4% in VET enrolments (Source: *AEI International Student Data YTD July 2009*, 26 August 2009),

rights to overseas student graduates,⁵ many desperate to find work since that is their pathway to PR visas under current government policy, the ultimate goal of study in Australia for many.

That means not only more competition for a shrinking number of jobs, but increased risk of undercutting of Australian wages and conditions by international students and graduates desperate for the employment needed for PR. This disastrous situation is entirely the creation of government policy failures, in international education and immigration policy.

This is an issue for VET trade courses not just for the current downturn, but for the future generally, because periodic cyclical downturns are inevitable. An international VET growth strategy that emphasizes employment-based training courses for overseas students is therefore inevitably a high-risk option for the domestic population and workforce.

The policy of pursuing growth in international VET trade courses requiring workplace training for overseas students is completely inconsistent with the Commonwealth government's policies to deal with the 20% decline in Australian apprenticeships during the economic downturn. This translates to a drop of around 10,000 in the number of traditional trades apprentice starts.⁶

The Rudd government says it has committed around \$250 million in additional support for apprenticeships, including \$100 million announced in October 2009 in a new Apprentice Kickstart program "to support up to 21,000 young Australians entering traditional trades this summer".⁷

But these Australian young people will be competing for work places in a trades job market against thousands of overseas VET students themselves desperate for the trade work.

The CFMEU was concerned to find that the September 2009 International Student Roundtable called for an increase in "industry experience" for overseas students, without any acknowledgement of the consequences of such an approach and the need for strong safeguards. The Roundtable Communique says:

Industry experience – the Roundtable feel a more 'hands on' approach to education, with industry experience, is necessary in refining student qualifications and learning. It would like educational institutions to provide this experience by increasingly linking institutes to industries and offer international students more internships or training programs at no additional cost.⁸

⁵ See CFMEU Submission to Senate Inquiry into the Welfare of International Students, August 2009.

⁶ Deputy Prime Minister Julia Gillard, "\$100M for new Apprentice Kickstart program", media release, 16 October 2009.

⁷ Ibid.

⁸ International Student Roundtable, Parliament House, Canberra. Communique, 15 September 2009.

3. Conclusions

The Review is charged with making recommendations to better protect international students and enhance Australia's reputation for quality education and training courses.

International students clearly need better protection through the ESOS. The CFMEU believes when redressing the inequities in the current system that adversely affect international students, great care must be taken to ensure that the rights and interests of the domestic workforce and job seekers are not inadvertently compromised in the process.