

**High Commission of India
Canberra**

REVIEW OF ESOS ACT 2000: COMMENTS

1. **Scrutiny for Student visa** : There can be no substitute for intensive scrutiny and interaction at the Australian High Commission/Consulate level to ensure that only genuine students are given visas and that these students have a clear understanding of what they are taking on in terms of both their rights and their responsibilities. It should be ensured that students come to Australia for study only
2. **Single organisation for international students** : There needs to be an organisation looking after international students because they have no family or friends support network nor can they access the new migrant support network. There should be a nation-wide consensus on the scope and functions of such an organisation, which can best be achieved if there is just one organization at the federal level. This organisation should be responsible for both accreditation of institutions and for their regulation.
3. **Credentials** : It is worth considering here whether there should be a requirement for all schools to have proven their credentials in the domestic market before being allowed to have international students, and whether there should be a requirement for such schools to continue to have a minimum percentage of domestic students. This would mean that licensing, registration and regulation of schools would be done on the same basis across Australia, and the role for an international student authority would be limited to offering the support network that is not, by definition, organically available to the category of international students.
4. **Linkage to migration** : It has to be recognised that there will continue to be a clear linkage between the VET sector and immigration, because providers will focus on providing those skills which are in short supply in the local labour market, especially if preference is continued to be given to would-be migrants with an Australian qualification. It would therefore be practical to have the licensing and regulatory mechanism as a federal mechanism working closely with DIAC.
5. **Visa monitoring by DIAC** : The onus of ensuring that students meet their visa obligations should not be on the schools. The schools should only be required to report periodically on all students regarding matters affecting visa obligations such as non-attendance and working more than 20hours a week. This would mean that no student is singled out and reporting non-compliance is not used as a threat but done as part of a regular routine. It should be DIAC's call as to whether, and what, action is taken students guilty of non-compliance, perhaps in consultation with the ESOS regulatory mechanism.
6. **Admission criteria** : The criteria for admission to any Australian University and in any course is only the test for English language i.e. 'IELTS' exam, which is not perfect to judge the suitability of a student for a higher educational course. There ought to be some competitive exam like

SAT, GRE and G-Mat for selection of students for higher educational courses.

7. Supporting the Interests of Students: The following might be of interest:

(i) The problem faced by the students of Sterling College, which was shut down in July this year may be recalled. First, the College was shut down without prior intimation to the students and second, the Administrator made a statement that fees paid by the students would not be refunded. A procedure needs to be laid down on 'how' Colleges may be shut down; Administrators need to be informed in advance about procedures so that students are not unfairly disadvantaged; in the case of Sterling College, statements were issued subsequently revoking/clarifying the Administrator's statement regarding non-refund of fees already paid.

(ii) ACPET was entrusted with the responsibility of relocating the students; since ACPET is not a regulatory body and is only a Council, it has limited say in matters. Initially, ACPET had identified a College which was to take in the Community Welfare students; the College subsequently expressed its inability to do so; as a result, final relocation took very much longer than the 28 day stipulated period; this resulted in causing considerable mental anguish for the students. ACPET or an appropriate body needs to be provided with regulatory and enforcement authority, without which the private education providers remain largely unchecked.

(iii) If ESOS funds are to be augmented, it needs to be decided how such augmentation will take place; the Paper envisages that the private providers may need to pay additional levies; this is likely to be sourced from the students by the private providers; it would be useful to have clarity on this.

(iv) International students do not at present have a single place where they may turn to in case of queries, problems etc; it would be useful to consider setting up International Students Centres, which are essentially run by students but which are also serviced by other relevant agencies the students have to deal with such as police, immigration, taxation office, legal services, etc; membership to such a Centre may be compulsory and may be on the basis of a compulsory fee of a nominal sum (say A\$ 50 per annum); the Centre would function as a 'one-stop shop' for student's services.

(v) the ability of education providers to hold the Damocles' sword over the student's head by linking visas to performance needs to be reconsidered in the light of evidence that many providers use this leverage to charge more/higher fees from students.

8. Delivering Quality as the Cornerstone of Australian Education and Effective Regulation: In order to ensure this, a mechanism for regulating the private providers needs to be institutionalized; at present, there is a mechanism through which university education is regularly audited; however, such a system vis-à-vis the private providers does not seem to exist. It is also worth mentioning that the bulk of the

complaints of the international student community is against private providers and as such, special emphasis needs to be placed on identifying how this might be done. ACPET is also not a competent organization to carry out this mandate. Whether this should be a State matter or a Federal matter is for Australian authorities to take a view on.

Second, goal posts cannot be shifted without transparency. At present, levels of English proficiency appears to be shifted arbitrarily, causing considerable difficulties and mental tension to students; a clear case in mind is how the requirement levels have been increased for nurses without giving any justification on the need to increase the requirement.

Third, closer interface with diplomatic and consular missions is critical for success in the sector. It would be helpful to have the information related to agents in India who are servicing some of the private colleges which have large intake; such information is currently not available; cooperation between agencies could ensure that racketeering through non-kosher private providers and agents would be controlled to a larger extent than at present.

Fourth, there is need to improve the Orientation Programme and to ensure that this is done on a regular basis to assist students coming from diverse cultural backgrounds to find comfort levels at an early stage in their education experience in Australia.

Fifth, providers need to take responsibility for (i) accommodation which should be low cost and near the place of study, (ii) job placements which should be near the place of stay and should be strictly in accordance with Australian minimum wages, (iii) assistance and special coaching, where required, to enable students to 'catch up' or reach comparable levels in academics as their class mates.

9. Audit of colleges

As a result of audit, colleges can either be closed down or voluntarily fold operations. The replacement modalities for the students affected by these closures need to be monitored carefully.

There are some private colleges who may be facing the imminent danger of closure and who are exploiting the international students by asking them to deposit fees in advance.

It may be ensured that the affected students are not re-allocated to another college, which could be under audit and face closure subsequently. The colleges where the affected students are provided placement should have the appropriate clearance from the concerned authorities.

10. Accommodation : Education providers do not guide prospective students properly about availability of accommodation. Students are required to provide various references etc. (like pay slip, bank account

etc.) to hire accommodation privately. As they do not have these references, they face a lot of difficulty in getting private accommodation. In some cases, nexus between housing officers in the institutions and property agents have come to notice whereby the students are forced to shell out large sums of money, and most of whom may not have any earning while studying here. There is a long waiting list for accommodation in student hostels and local students are reportedly given preference over international students on allotment of accommodation. Education providers in association with the state authorities be made responsible for providing/arranging accommodation for international students.

11. **Funds** : Australian Immigration requirement is that students, at the time of applying for visas, need to demonstrate proof of funds that would cover the period of their study. Instances are informally brought to our attention that the proof is 'moved around'; in other words, the money that is shown as being in the bank account is 'transferred' to another applicant's bank account after the first applicant obtains his/her visa. To prevent such misuse/misrepresentation, it is being proposed that full payment of fees be made by the student to the education provider at the time of applying for a visa. I believe this is unfair and would not work, especially since it does not allow for a safety valve in cases where an education provider collapses or is shut down; student's would then have to run around seeking refund of fees. To avoid such a situation, Australian authorities may wish to consider insisting on a **bank guarantee**. This would meet with Australian requirements of proof of sufficient funds and at the same time, prevent transfer of the funds after the visa is obtained. The Australian authorities can authorize certain Indian banks for issuance of such guarantees.

12. **Work for students** : One of the principal grievances of the student community is that promise of 20 hours of work at Australian minimum wages is essentially a false promise. With supply far out-stripping demand, employers are in a position to get persons to work longer hours and at wages far below the stipulated minimum wage; additionally, employers also violate Australian laws by paying the workers in cash rather than by cheque. Cash-in-hand jobs also make the students vulnerable to muggings and crime. This could be addressed if job placements and internships were made mandatory for the education provider, including ensuring that the job provider is within the boundaries of Australian law in terms of working conditions, contract and remuneration. Attempts by agents to provide false information or concoct job opportunities in Australia could be addressed through such a system.

13. **Information about work, PR** : Education providers, esp. the private colleges in VET sector and their agents should provide correct information about the courses and living in Australia (like limited working hours and availability of work, requirements for getting PR etc.).

14. **Work permit for students after completing study**: The employability factor for students after completion of their study is also

very low. There should be some 'Built-in work permit' for students of higher education so that they could gain some Australian work experience after completion of their study and before they return to their countries. International students in United Kingdom are allowed to obtain work-permit for two years after completion of their studies.

15. **Misuse of spouse visa** : Complaints are being received of misuse of the spouse's visa. This may be addressed by restricting spouse's visa only to student's pursuing a Masters programme. This would guard against marriages of convenience, which is the route adopted currently to misuse the spouse's visa. To some extent, it would also address High Commission's concerns on increasing cases of domestic violence.

16. **Transport Concessions** : International students be given transport concessions by states/territories across the board.

17. **Education agents** : There is an imperative need to regulate the education agents. In India, the Ministry of Overseas Indian Affairs (MOIA) is taking action to regulate the agents (including their sub-agents). In this regard, both India and Australia need to work together. Every education provider in Australia should be directed to list its agents on its website and there should be a register of agents; student visa should display the name/regn. No. of the concerned education agent. Education providers be made accountable for the acts of commission/ommission by their agents

18. **Lack of scholarships**: There are no scholarships available for Graduate students while in post graduate courses the availability of scholarships is very limited as compared to availability of these facilities in Universities in Europe and USA. The number of scholarships should be significantly increased if Australian Universities have to attract international students.

19. **Discrimination in research work** : It has been reported that overseas students are asked to complete their research in 3 years time while Australian students are allowed to complete the same research work in 3-1/2 years or more time. It is understood that the federal Government of Australia gives these institutions \$ 0.1 M for each PHD student on completion of his/her research work and that is the reason that these institutions want to have more research students from overseas after a fixed period of 3 years so that they avail of more Government grant. There is thus a discrimination between local and overseas research students.