

# 2012 ESOS Changes

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A support handbook to assist CRICOS registered non-government schools implement 2012 changes to the **Education Services for Overseas Students (ESOS)** framework

December 2012



Independent Schools  
Council of Australia



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## About this handbook

The Independent Schools Council of Australia (ISCA) has created this handbook with funding provided by the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) as a guide to assist non-government schools to comply with the changes to the Education Services for Overseas Students (ESOS) framework introduced in 2012 as the Australian government's [Second Phase Response](#) to the [Baird Review of the Education Services for Overseas Students \(ESOS\) Act 2000](#).

The majority of changes covered in this handbook were effective as of 1 July 2012. However, some changes are still forthcoming, and updates will be made as necessary.

ISCA acknowledges the ongoing support of DIISRTE and the state and territory Associations of Independent Schools (AISs).

This handbook is intended for use as an electronic guide and utilises web links to access legislative and other references. Any further revisions to the handbook will be available online at [www.isca.edu.au](http://www.isca.edu.au).

### How to use

This handbook is intended as a practical resource and reference point. Information is organised under the following headings:

- Overviews, including
  - Description
  - Requirements
  - Notes
  - More information
- Resources, including
  - Checklists
  - Sample Procedures
  - Sample Policies

In some cases, updates are provided of sample documents or policies from the [ISCA National Code 2007 Transition support handbook](#).

In this handbook:

- **[Recommended or optional inclusions in school policies, procedures and documents appear in red]**
- *[Advisory notes or items requiring customisation are included in italics]*

Provide your feedback

ISCA welcomes your comments. Please direct any queries or comments regarding this publication, direct to the Project Manager, Caroline Miller at [caroline.miller@isca.edu.au](mailto:caroline.miller@isca.edu.au).

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## DISCLAIMER

This handbook is intended as a practical guide for non-government schools, and relates specifically to school-level courses.

Its content has been checked by officers of Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE).

Any queries regarding interpretation, requests for clarification or further information should be directed to the relevant contact at:

<https://aei.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOSenquiries/Pages/Default.aspx> .

Schools may wish to seek legal advice relating to any changes to letters of offer and written agreements/acceptance of enrolment forms (including refund policies) with students and or other parties.

Schools are also referred to information about legislation and recent changes to the *Education Services for Overseas Students (ESOS) Act 2000* at:

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

## Introduction and legislative environment

### Background

The Independent Schools Council of Australia (ISCA) is the peak national body of the independent schools sector. It comprises the state and territory Associations of Independent Schools, in turn representing 1,100 schools and over 550,000 students, or roughly 16% of Australian school enrolments.

Enrolling full-fee paying students with student visas is subject to a range of Commonwealth, state and territory legislation.

The relevant state and territory authority is the designated authority for the registration of schools providing school-level courses to full-fee paying overseas students with student visas. Schools are then registered as providers of school-level courses on the Commonwealth Register of Courses and Institutions for Overseas Students (CRICOS) by DIISRTE based on the recommendation of the designated authority.

CRICOS registration for providers in other sectors is managed by the relevant national regulator - either the [Tertiary Education Quality and Standards Agency \(TEQSA\)](#) or the [Australian Skills Quality Authority \(ASQA\)](#).

Schools offering stand-alone VET courses, or other courses that are not for delivery to students holding or eligible to hold 571 subclass student visas, may also fall under the jurisdiction of another regulator.

This handbook addresses aspects of compliance for the non-government school sector with respect to delivery of school level courses within this legislative environment.

### Regulatory environment

The primary body of Commonwealth legislation governing international education is the [ESOS framework](#).

The ESOS framework is managed by DIISRTE which also manages:

- o [The Tuition Protection Service](#)
- o [The Provider Registration and International Students Management System \(PRISMS\)](#)
- o [Registration Fees and Charges](#)

In 2012 the ESOS framework, as it relates to non-government schools, comprises:

- o the suite of ESOS Acts
  - [The Educational Services for Overseas Students Act 2000](#)
  - [The Education Services for Overseas Students \(Registration Charges\) Act 1997 \(the Charges Act\)](#)
  - [The Education Services for Overseas Students \(TPS Levies\) Act 2012](#)

- o ESOS Regulations
  - [Education Services for Overseas Students Regulations 2001](#)
- o National Code of Practice
  - [National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007](#)
- o A range of Legislative Instruments enabling enactment of new ESOS legislation and establishment of the Tuition Protection Service
  - [Education Services for Overseas Students Act 2000 - Specification of criteria for the purposes of the definition of designated authority \(19/06/2011\)](#)
  - [Legislative Instrument: Education Services for Overseas Students \(Calculation of unspent pre-paid fees – provider default\) Determination 2012 \(No. 1\)](#)
  - [Legislative Instrument: Education Services for Overseas Students \(Calculation of unspent pre-paid fees – Other Cases\) Determination 2012 \(No. 1\)](#)
  - [Legislative Instrument: Education Services for Overseas Students \(Notifying provider default – requirements for a notice\) Determination 2012 \(No. 1\)](#)
  - [Legislative Instrument: Education Services for Overseas Students \(Provider default – discharge of obligations – requirements for a notice\) Determination 2012 \(No. 1\)](#)
  - [Legislative Instrument: Education Services for Overseas Students \(Notifying student default – requirements for a notice\) Determination 2012 \(No. 1\)](#)
  - [Legislative Instrument: Education Services for Overseas Students \(Student default – discharge of obligations – requirements for a notice\) Determination 2012 \(No. 1\)](#)
  - [Legislative Instrument: Education Services for Overseas Students \(TPS Director to notify Immigration Secretary of payment of refunds\) Determination 2012 \(No. 1\)](#)
  - [Education Services for Overseas Students \(TPS Levies\) \(Levy exemptions\) Determination 2012 \(No. 1\)](#)

The suite of ESOS Acts and the ESOS regulations collectively establishes guidelines overseeing:

- o Provider registration
- o Registered provider obligations
- o The Tuition Protection Service (established in 2012 to replace previous Tuition Assurance arrangements)
- o ESOS legislative framework enforcement
- o Format and contents of the National Code

CRICOS registered schools should be aware that under the ESOS framework there are serious penalties for failure to meet provider obligations. Amendments to the ESOS Act include provision for enforceable undertakings. For more information see [Division 4— Enforceable undertakings](#).

Another key aim of the ESOS framework is maintaining the integrity of the **Student Visa Program**.

Schools must be aware of their obligations under the Migration Act, and the visa conditions imposed on their students. For more information, review the Department of Immigration and Citizenship (DIAC) website at <http://www.immi.gov.au> and the information provided for schools and other providers of education for overseas students.

In particular, see:

- o [Student Visa Options](#)
- o [Information for Education Providers](#)
- o [Government Response to the Knight Review](#)
- o [What's New?](#)

Additionally, schools wishing to provide education services to overseas students must be aware of and comply with all relevant Commonwealth and state or territory legislation, including:

- o Child and consumer protection legislation
- o Privacy laws
- o Domestic quality assurance frameworks and registration processes
- o Government funding and reporting obligations

## Overview of changes to the ESOS framework to establish the Tuition Protection Service (TPS)

**Description** As a recommendation of the [Baird Review of the Education Services for Overseas Students \(ESOS\) Act 2000](#), a new single layer [Tuition Protection Service](#) (TPS) was introduced in 2012 to provide stronger tuition protection for students who have paid tuition fees in advance of beginning a course, in the event of a provider or student default.

All registered providers are required to pay an annual TPS levy, without exception. However, public providers are exempt from having to pay certain components of the levy.

In the event of any default, either by a provider or a student, there is a requirement to report details of the default and of any refunds owing, and paid, in PRISMS within prescribed timeframes.

Failure to do this can attract significant penalties.

If a provider cannot fully deliver a course of study to a student, and cannot arrange an alternative placement in a suitable course accepted by a student, or refund unspent tuition fees, the student will be able to seek assistance through the TPS.

Establishment of the TPS has required changes to school fee collection practices, record keeping requirements, PRISMS reporting obligations and timelines, and to school letters of offer, written agreements and refund policies.

Further details about the TPS, changes to fees management, limits on pre-paid fees, record keeping requirements and reporting obligations can be found below.

Examples of updated key documents can be found at [Updates for key school documents](#) (p. 25)

### Requirements

#### I. ESOS Act 2000

##### Part 1 – Introduction

- [s.5 Definitions](#)
- [s.7 Meaning of tuition fees](#)

##### Part 3 – Obligations on registered providers

###### Division 1 – General obligations

- [s.19 Giving information about accepted students](#)
- [s. 21 Record keeping](#)
- [s.22 Requirement to provide for study periods](#)
- [s.24 TPS levies](#)

###### Division 2 – Pre-paid fees

- [s.27 Pre-paid fees](#)

- [s.31 Exemption from requirement \(i.e., to maintain a designated account\)](#)

## **Part 5 – Tuition protection service**

### **Division 2 - Obligations on registered providers when a provider or student defaults**

#### **Subdivision A – Provider defaults**

- [s.46A When a registered provider defaults](#)
- [s.46.B Registered providers to notify of provider default](#)
- [s.46D Obligations on registered providers in case of provider default](#)
- [s.46F Registered providers to notify outcome of discharge of obligations](#)

#### **Subdivision B – Student defaults**

- [s.47A When a student defaults](#)
- [s.47B Requirement to make written agreement about student default](#)
- [s. 47C Registered provider to notify of student default](#)
- [s.47D Refund under a written agreement about student default](#)
- [s.47E Refund in other cases](#)
- [s.47H Registered providers to notify of outcome of discharge of obligations](#)

## **II. ESOS (TPS Levies) Act**

- [Part 2—The amount of the TPS levy](#)
- [Part 3- s.12 Exemptions](#)

## **III. ESOS Regulations 2001**

- [2.01 Information to be entered on the Register](#)
- [3.01 Prescribed details about accepted students](#)
- [3.02 Prescribed information about accepted students who do not begin courses when expected](#)
- [3.03 Other prescribed matters relating to accepted students](#)
- [3.03A Prescribed condition of student visa](#)
- [3.04 Details of which a registered provider must keep records](#)
- [3.05 Electronic records](#)

## **IV. Legislative instruments**

- [Legislative Instrument: Education Services for Overseas Students \(Calculation of unspent pre-paid fees – provider default\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Calculation of unspent pre-paid fees – other cases\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Notifying provider default – requirements for a notice\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Provider default – discharge of obligations – requirements for a notice\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Notification of student default – requirements for a notice\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Student default – discharge of obligations – requirements for a notice\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(TPS Director to notify Immigration Secretary of payment of refunds\) Determination 2012 \(No. 1\)](#)

- [Education Services for Overseas Students \(TPS Levies\) \(Levy exemptions\) Determination 2012 \(No. 1\)](#)

**Notes**

Changes to the ESOS legislation and the National Code will be ongoing in 2013. Schools are encouraged to check regularly the AEI web pages for the [ESOS framework](#) and [PRISMS](#) home page. As changes to PRISMS are made, the [Provider User Guide](#) will also be updated.

**More information**

[www.tps.gov.au](http://www.tps.gov.au)  
<https://tps.gov.au/Information/Providers/Levy>  
[Recent changes to ESOS](#)  
[What do I need to do to comply? Legislative checklist](#)  
[What do I need to do to comply? Provider Brochure](#)  
[What do I need to do to comply? FAQs](#)  
[PRISMS Home page](#)  
[PRISMS Provider User Guide](#)

## The Tuition Protection Service (TPS)

### Description

The Tuition Protection Service (TPS) was established in 2012 as a result of the [Baird Review of the Education Services for Overseas Students \(ESOS\) Act 2000](#).

The TPS is a single layer tuition protection scheme for overseas students, which aims to ensure there are quick and streamlined placement and refund processes for students in event of visa refusal and provider or student default.

The function of the TPS is to:

*“...assist international students whose education providers are unable to fully deliver their course of study. The TPS ensures that international students are able to either: complete their studies in another course or with another education provider or receive a refund of their unspent tuition fees.”*  
( <https://tps.gov.au/Information/Students/How>)

A feature of the TPS is an online placement service that will assist to match students with an alternative provider in event of provider closure or inability to deliver course in which a student has enrolled.

The TPS is administered by a Director, whose roles and responsibilities include oversight of processes following provider default, managing the operation of the Overseas Student Tuition Fund (OSTF) and, together with the TPS Advisory Board, determining the amount of the annual TPS levy payable by registered providers.

An annual TPS levy is scheduled to be introduced in the first quarter of 2013.

The TPS levy has four components that will be indexed annually:

- i. an Administrative Fee of \$100 Plus \$2 x total overseas student enrolments for the previous year
- ii. a Base Fee of \$200 plus \$5 x total overseas student enrolments for the previous year\*
- iii. a Risk Rated Premium determined by the TPS Director as reflecting the risk of default for each registered provider (with the exception of publicly owned institutions)\*\*
- iv. a Special Tuition Protection Premium which can be used to respond to industry needs

*\*Registered schools with no international students enrolled in a calendar year are exempt from this component.*

*\*\*See [S.9 Risk rated premium component](#) for the formula for calculation of the Risk Rated Premium*

**Requirements** Please see legislative references under [Requirements for Overview of changes to the ESOS framework to establish the Tuition Protection Service \(TPS\)](#), above.

**Notes** The Tuition Protection Service (TPS) replaces the Tuition Assurance Scheme and the ESOS Assurance Fund.

Unlike previous tuition assurance arrangements, there are no provider exemptions for contributions to the TPS fund.

Non-government schools in receipt of government funds for recurrent expenditure for the provision of education or training are exempt from having to maintain a designated account for payment of tuition fees before a student has begun a course. See ESOS Act 2000 [s.31 Exemption from requirement \(i.e., to maintain a designated account\)](#) for further information.

Under Section 50C(3) of the ESOS Act, the TPS Director may recover from the provider as a debt, the amount equal to the amount paid for a student under the TPS.

**More  
Information**

[www.tps.gov.au](http://www.tps.gov.au)

<https://tps.gov.au/Information/Providers/How>

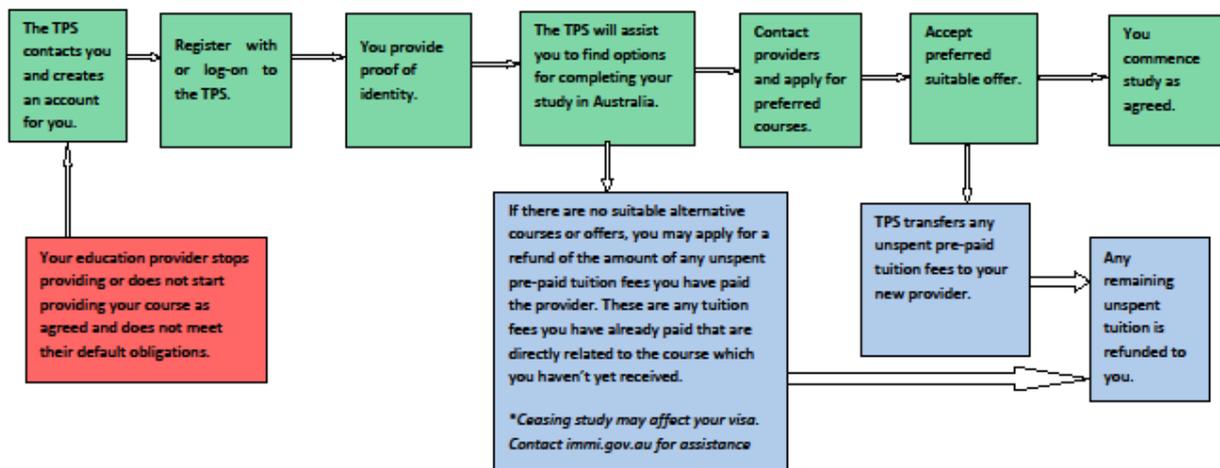
<https://tps.gov.au/Information/Providers/Levy>

## TPS Information for international students and for education providers

### 1. Information about the TPS for international students

Below is a [diagram](#) provided by the TPS for international students to explain how the TPS will work.

*The TPS overview – how does it work for international students?*



**Note:** The above flow diagram is for guidance purposes only. To the extent that the diagram is inconsistent with the *Education Services for Overseas Students Act (the ESOS Act) 2000* the ESOS Act prevails. Providers should not rely on this diagram alone and must read the requirements in the ESOS Act.

### 2. Information about the TPS for education providers

There is also a step by step explanation of processes for [education providers](#). This covers processes involved from time of default for notifying PRISMS and the TPS Director, to the Provider Obligation Period, and notification of the outcome and discharge of obligations. The process is outlined below.

The following steps outline the TPS process if a provider default occurs:

#### Step 1 – Provider default occurs

Under section 46A of the ESOS Act a registered provider defaults, in relation to an overseas student or intending overseas student and a course at a location, if:

- the provider fails to start providing the course to the student at the location on the agreed starting day; or
- after the course starts but before it is completed, it ceases to be provided to the student at the location; and the student has not withdrawn from the course before the default day.

*Note: Section 46A sets out further rules prescribing when a provider defaults.*

#### Step 2 – Notifying the Secretary, the TPS Director and students

- Under section 46B of the ESOS Act, you must notify the Secretary and the TPS Director of the default within 3 business days of the default occurring. Under section 46B you must also notify students in relation to whom you have defaulted.

- The notices must be in writing and meet the requirements of section 46B.

Step 3 – Provider obligation period

- Under section 46D of the ESOS Act, you have 14 days after the day of the default (the provider obligation period) to satisfy your tuition protection obligations to the student as set out in the section.
- If you fail to discharge your obligations to the student under section 46D, it is an offence under section 46E of the ESOS Act and serious penalties apply.

Step 4 – Notification of the outcome- discharge of obligations

- Under section 46F of the ESOS Act, you have 7 days after the end of your obligation period to give a notice to the Secretary and the TPS Director of the outcome of the discharge of your obligations. This notice must comply with the requirements of section 46F.
- If you do not meet your obligations affected students may be assisted by the TPS Director.

*Note: The Step by Step process described above is for guidance purposes only and to the extent that it is inconsistent with the Education Services for Overseas Students Act (the ESOS Act) 2000 the ESOS Act prevails. Providers should not rely on this Step by Step process description alone and must read the requirements in the ESOS Act.*

<https://tps.gov.au/Information/Providers/How#div1>

### **3. Processes for provider default and student default.**

Please see the following diagrams:

- [Process for Education Providers in event of Provider Default](#)
- [Process for Education Providers in event of Student default](#)

## Overview of changes for tuition fees and non-tuition fees

**Description** Because the TPS is designed to protect student tuition fees, there is now an important distinction between *tuition fees* and *non-tuition fees*.

### *Tuition fees:*

- are fees received, directly or indirectly, that are directly related to the provision of a course
- include tuition fees, fees for compulsory course materials, and any compulsory enrolment or administration fees that apply during the entire period of enrolment
- will vary depending on the nature of the course being offered

*Non-tuition fees* include fees such as OSHC, application fees, accommodation fees (such as homestay or boarding fees), book fees (where books are not supplied by the school) and uniform fees.

The total amount of *tuition fees* for the entire course has to be included in letters of offer and when generating CoEs.

The total amount of compulsory *tuition fees* in letters of offer and CoEs will be compared with the registered course cost on PRISMS. These should therefore not exceed the registered course cost on PRISMS, and the registered course cost on PRISMS should **not** include any *non-tuition fees*.

Written agreements must set out the length of each study period for a course and the tuition fees for each study period for a course.

For administration purposes and PRISMS data entry, written agreements should also itemise both *tuition fees* and *non-tuition fees*.

There are also limits on the amount of *pre-paid fees* that can be received before a student begins a course.

*Pre-paid fees* means *tuition fees* received by a school, in relation to a *study period* for a course, before the student begins the *study period*.

By definition, a *study period* cannot be longer than 24 weeks.

A school must not **receive** more than 50% of a student's total tuition fees for a course before the student has begun the course.

After a student has started a course, a school must not **require** any of the remaining tuition fees for the course to be paid more than 2 weeks before the beginning of the student's second study period for the course.

PRISMS requires reporting of amounts of *tuition fees* and *non-tuition fees* at various times:

- estimated totals of *tuition* and *non-tuition fees* for entire course;
- amount of *tuition* and *non-tuition fees* received before creating a CoE in PRISMS;
- start and end dates for the period covered by *pre-paid tuition fees*;
- whether OSHC has been paid for the student before the course begins, and
- details of any tuition fees (amount, date of payment and period covered) within 14 days of the end of any calendar month in which tuition fees have been received.

Schools must keep records of all amounts of fees received directly or indirectly for *tuition fees* and *non-tuition fees*, and details of any periods of time covered, as well as any amounts not received.

## Requirements

ESOS Act 2000

- [s.5 Definitions](#)
- [s.7 Meaning of tuition fees](#)
- [s.19\(1\)\(f\) Giving information about accepted students](#)
- [s.22 Requirement to provide for study periods](#)
- [s.27 Pre-paid fees](#)

ESOS Regs 2001

- [2.01 Information to be entered on the Register](#)
- [3.01\(i\) - \(k\) Prescribed details about accepted students](#)
- [3.03\(5\) Other prescribed matters relating to accepted students](#)
- [3.04 Details of which a registered provider must keep records](#)

## Notes

Schools should check that any definitions or references to *course fees or costs* in school documents align with ESOS definitions.

Schools should check with finance departments that fees collection procedures comply with requirements for *pre-paid fees*.

## More Information

[DIAC Minimum contents of a Letter of Offer](#)

[PRISMS Provider User Guide \(5.21 How to Manage Payment Details\)](#)

## Checklist for tuition fees and non-tuition fees

- School documents (letters of offer, written agreements, fees policies, refund policies, etc.) distinguish between *tuition fees* and *non-tuition fees*.
- Definitions or references to *tuition fees* and other fees in school documents align with ESOS definitions and requirements.
- Letters of offer include the total amount of *tuition fees* for the entire course.
- CoEs include the total amount of *tuition fees* for the entire course.
- The total amount of *tuition fees* for the entire course does not exceed the registered course cost on PRISMS.
- Written agreements itemise both *tuition fees* and *non-tuition fees*.
- Written agreements set out the length of each *study period* for a course and the *tuition fees* for each *study period* for a course.
- Study periods* are not longer than 24 weeks.
- The written agreement/acceptance of enrolment is signed prior to or at the same time as fees are received.
- Fees invoices do not request payment of more than 50% of a student's total tuition fees for a course before the student has begun the course.
- Fees invoices after a student has started a course do not **require** any of the remaining tuition fees for the course to be paid more than 2 weeks before the beginning of the student's second study period for the course.
- There is a method of recording all dates and amounts of payment (and non-payment) of tuition fees and non-tuition fees and the period of time covered by each payment for PRISMS reporting purposes. See [PRISMS Provider User Guide \(5.21 How to Manage Payment Details\)](#).

## Overview of provisions and obligations for refunds, reporting and record keeping in event of provider and student default

**Description** Because the TPS is designed to protect student tuition fees in the event of provider or student default, there are changes to requirements for refunds of tuition fees, PRISMS reporting obligations and record keeping.

A *provider defaults* when the student has not withdrawn from the course before the default day and either:

- i. the course is not provided to the student on the agreed starting day (either the scheduled starting day or a later day agreed between the provider and the student); or
- ii. the course ceases to be provided to the student any time after the course start date but before it is completed.

A provider has 14 days after the default day (the *provider obligation period*) to:

- i. arrange for the student to be offered an alternative course at the provider's expense (and the student must accept this offer in writing); or
- ii. provide a refund of any unspent pre-paid fees. (See [Education Services for Overseas Students \(Calculation of unspent pre-paid fees – provider default\) Determination 2012 \(No. 1\)](#) for details of how unspent pre-paid fees must be calculated.)

A provider has to report in PRISMS within 7 days after the end of the *provider obligation period* whether the student accepted an alternative course or a refund, and details of these.

A *student defaults* when

- i. the course starts at the location on the agreed starting day, but the student does not start the course on that day (and has not previously withdrawn); or
- ii. the student withdraws from the course at the location (either before or after the agreed starting day); or
- iii. the school refuses to provide, or continue providing, the course to the student at the location because of one or more of the following events:
  - the student failed to pay an amount he or she was liable to pay the provider, directly or indirectly, in order to undertake the course;
  - the student breached a condition of his or her student visa;
  - misbehaviour by the student.

Written agreements must set out refund requirements in any cases of *student default*, as well as meet any requirements of the National Code.

In the case of student default, refund requirements under a written agreement must be paid within the *provider obligation period* of 4 weeks after receiving a written claim from the student.

[Note that this differs from the *provider obligation period* of 14 days in the case of provider default]

*Visa refusals* are considered to be a special case of *student default* (see [s.47E Refund in other cases](#)). The prescribed refund for *visa refusal* is the total amount of the pre-paid fees received for the course *less* whichever is the lesser amount:

- (a) 5% of the total amount of pre-paid fees that the provider received in respect of the student for the course before the default day; or
- (b) the sum of \$500.

The school must report any *student default* in PRISMS within 5 business days of the default day.

The schools must report in PRISMS within 7 days after the end of the *provider obligation period* details about whether a refund has been provided, who a refund has been paid to, and the amount of the refund paid.

## Requirements

### ESOS Act 2000

#### Part 5 – Tuition protection service

#### Division 2 - Obligations on registered providers when a provider or student defaults

##### Subdivision A – Provider defaults

- [s.46A When a registered provider defaults](#)
- [s.46.B Registered providers to notify of provider default](#)
- [s.46D Obligations on registered providers in case of provider default](#)
- [s.46F Registered providers to notify outcome of discharge of obligations](#)

##### Subdivision B – Student defaults

- [s.47A When a student defaults](#)
- [s.47B Requirement to make written agreement about student default](#)
- [s. 47C Registered provider to notify of student default](#)
- [s.47D Refund under a written agreement about student default](#)
- [s.47E Refund in other cases](#)
- [s.47H Registered providers to notify of outcome of discharge of obligations](#)

### Legislative Instruments

- [Legislative Instrument: Education Services for Overseas Students](#)

[\(Calculation of unspent pre-paid fees – provider default\) Determination 2012 \(No. 1\)](#)

- [Legislative Instrument: Education Services for Overseas Students \(Calculation of unspent pre-paid fees – other cases\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Notifying provider default – requirements for a notice\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Provider default – discharge of obligations – requirements for a notice\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Notification of student default – requirements for a notice\) Determination 2012 \(No. 1\)](#)
- [Legislative Instrument: Education Services for Overseas Students \(Student default – discharge of obligations – requirements for a notice\) Determination 2012 \(No. 1\)](#)

**Notes**

If a school decides not to provide a course to a student because of misbehaviour, the student is not considered to have defaulted unless natural justice has first been accorded.

**More information**

[Timelines for Reporting Provider Obligations in Case Of Provider Default or Student Default](#) (p. 19)  
[SCV Quick Reference Guide](#)

## Timelines for reporting provider obligations in case of provider default or student default

<b>NOTIFY PRISMS and TPS DIRECTOR within 3 Business days</b>			
<b>AND</b>			
<b>DAY OF PROVIDER DEFAULT</b>	<b>PROVIDER OBLIGATION PERIOD</b>	<b>+</b>	<b>REPORT OUTCOMES</b>
	<p>In the case of PROVIDER DEFAULT, a provider has <b>14 days</b> to satisfy tuition protection obligations to an affected student, i.e.,</p> <p>(i) arrange for the student to be offered a place in an alternate course at the provider’s expense which is accepted by the student in writing</p> <p>OR</p> <p>(ii) refund the unused portion of prepaid tuition fees calculated in accordance with legislative instrument under subsection 46D(7).</p>		<p>Within <b>7 days</b> after the end of the Provider Obligation Period</p>
<b>NOTIFY PRISMS and TPS DIRECTOR within 5 Business days</b>			
<b>AND</b>			
<b>DAY STUDENT DEFAULT IS CONFIRMED</b>	<b>PROVIDER OBLIGATION PERIOD: UNDER A WRITTEN AGREEMENT</b>	<b>+</b>	<b>REPORT OUTCOMES</b>
	<p>Provider must pay a refund under written agreement to student or person specified in the written agreement, <b>within 4 weeks</b> after receiving a written claim from the student.</p>		<p>Within <b>7 days</b> after the end of the Provider Obligation Period</p>
	<b>OR</b>		
	<b>PROVIDER OBLIGATION PERIOD: IF NO VALID WRITTEN AGREEMENT/VISA IS REFUSED</b>	<b>+</b>	<b>REPORT OUTCOMES</b>
	<p>Provider must pay required amount of unspent pre-paid fees calculated in accordance with the legislative instrument under section 47E(4) of the ESOS Act <b>within 4 weeks of the student default day</b> if there is no valid written agreement, or if the student has been refused a visa.</p>		<p>Within <b>7 days</b> after the end of the Provider Obligation Period</p>
<b>+ Entry of relevant SCVs to be made in PRISMS within 14 days of a student default</b>			

## Overview of legislative requirements for record keeping and reporting

**Description** The [Provider and International Students Management System \(PRISMS\)](#) has been significantly enhanced to allow for more detailed and regular reporting of information about billing and payment of student fees, student contact details, student and provider default, and matters relating to student refunds. For all education providers, including schools, this will mean a considerable amount of additional administrative work, and business processes and procedures will need to be updated accordingly.

**Requirements** **There are timelines for reporting provider default and student default and for fulfilling provider obligations related to defaults.**

See: [Overview of provisions and obligations for provider and student default](#) (p.16) and [Timelines for Reporting Provider Obligations in Case Of Provider Default or Student Default](#) (p.19)

**There is a range of prescribed details about accepted students that must be entered into PRISMS within 14 days of an event occurring.**

**ESOS Act 2000 Part 3 –Obligations on registered providers**

**Division 1 – General obligations**

[s.19 Giving information about accepted students](#)

1) A registered provider must give the Secretary the following information within 14 days after the event specified below occurs:

- a) the name and **any other prescribed details** of each person who becomes an accepted student of that provider;
- b) for each person who becomes an accepted student—the name, starting day and expected duration of the course for which the student is accepted;
- c) **the prescribed information** about an accepted student who does not begin his or her course when expected;
- d) any termination of an accepted student’s studies (whether as a result of action by the student or the provider or otherwise) before the student’s course is completed;
- e) any change in the identity or duration of an accepted student’s course;
- f) **any other prescribed** matter relating to accepted students.\*

**\* For prescribed details under s19.1(a), (c) and (f) of the Act, see:**

[ESOS Regulations 2001 3.01 Prescribed details about accepted students](#)

For paragraph **19 (1) (a)** of the Act, the following details are prescribed for a person who becomes an accepted student of a provider:

- (a) the student’s full name;
- (b) the student’s gender;
- (c) the student’s date of birth;
- (d) the student’s country of birth;
- (e) the student’s nationality;
- (ea) if the student is under 18 years old:
  - (i) the current residential address, mobile phone number (if any) and email address (if any) of a person other than the provider who has legal authority to act on the student’s behalf; and
  - (ii) the relationship of the person to the student;

*Example*

A parent or guardian.

- (f) the unique identifier of the student’s course and its location;
- (g) the agreed starting day of the course;

- (h) the day when the student is expected to complete the course;
- (i) the amount of tuition fees that the provider received for the student for the course before confirming the student's enrolment using PRISMS;
- (ia) if the provider is not a public provider—the start and end dates of the period to which the amount mentioned in paragraph (i) relates;
- (ib) the amount of non-tuition fees that the provider received for the student for the course before confirming the student's enrolment using PRISMS;
- (j) the total amount of tuition fees that the student is required to pay to the provider to undertake the full course in accordance with the written agreement entered into with the student;
- (k) whether premiums have been paid for health insurance for the student (for example, overseas student health cover) before the course starts;
- (l) if the student has undertaken a test to determine the student's level of comprehension of English, the name of the test and the score the student received for the test;
- (m) the office of the Immigration Minister's Department where the student's application for a student visa was made or is expected to be made;
- (n) if the student was in Australia when he or she became an accepted student, the number of the student's passport;
- (o) if the student holds an Australian visa, the number of the visa.

*Examples of English tests for paragraph (l)*

1 The International English Language Testing System test.

2 An Occupational English Test conducted by the National Language and Literacy Institute of Australia.

3 Teaching of English as a Foreign Language test.

### ESOS Regulations 2001 3.02 Prescribed information about accepted students who do not begin courses when expected

- (1) For paragraph **19 (1) (c)** of the Act, the following information is prescribed for an accepted student who does not begin his or her course when expected:
  - (a) the information mentioned in paragraphs 3.01 (a) to (h) for the student (if the provider has not already given that information to the Secretary using PRISMS);
  - (b) the student's current residential address, mobile phone number (if any) and email address (if any) (if the student has given that information to the provider);
  - (c) the office of the Immigration Minister's Department where the student's application for a student visa was made.
- (2) However, the information need not be given about an accepted student if, before the student's expected starting day:
  - (a) the student asks the provider for a later starting day; and
  - (b) the request is made on health or compassionate grounds; and
  - (c) the provider agrees to a later starting day for the student.

### ESOS Regulations 2001 3.03 Other prescribed matters relating to accepted students

- (1) For paragraph **19 (1) (f)** of the Act, the following are prescribed matters relating to an accepted student who terminates his or her studies before the course is completed:
  - (a) the information mentioned in paragraphs 3.01 (a) to (h) for the student (if the provider has not already given that information to the Secretary using PRISMS);
  - (b) the student's current residential address, mobile phone number (if any) and email address (if any) (if the student has given that information to the provider);
  - (c) the office of the Immigration Minister's Department in Australia to which the Secretary is to give the information received under this regulation.
- (2) For paragraph 19 (1) (f) of the Act, the following are prescribed matters relating to an accepted student who changes his or her course, or whose course changes in duration:
  - (a) the information mentioned in paragraphs 3.01 (a) to (h) for the student (if the provider has not already given that information to the Secretary using PRISMS);
  - (b) the student's current residential address, mobile phone number (if any) and email address (if any) (if the student has given that information to the provider);
  - (c) the office of the Immigration Minister's Department in Australia to which the Secretary is to give the information received under this regulation.
- (3) For paragraph 19 (1) (f) of the Act, the following are prescribed matters relating to an accepted student whose studies have been deferred or suspended:
  - (a) the proposed duration of any deferment of studies;
  - (b) the proposed duration of any suspension of studies.
- (4) For paragraph 19 (1) (f) of the Act, the following are prescribed matters relating to an accepted student whose studies have been suspended or deferred by the provider or at the request of the student:
  - (a) any change to the proposed end date of the deferment of studies;
  - (b) any change to the proposed end date of the suspension of studies.
- (5) For paragraph 19 (1) (f) of the Act, the following are prescribed matters relating to an accepted student of a provider that is not a public provider, for whom the provider receives

- tuition fees during a calendar month:
- (a) the amount of each payment made;
  - (b) the date the payment was made;
  - (c) the start and end dates of the period to which the payment relates.

See also: [SCV Quick Reference Guide](#)

**Any breach of a prescribed condition of a student visa must be reported in PRISMS as soon as is practicable after the breach occurs.**

### **ESOS Act 2000 Part 3 –Obligations on registered providers**

#### **Division 1 – General obligations**

##### [s.19 Giving information about accepted students](#)

- 2) A registered provider must give the Secretary particulars of any breach by an accepted student of a prescribed condition of a student visa as soon as practicable after the breach occurs.\*\*

**\*\*For s 19.2 of the Act, see:**

##### [ESOS Regulations 2001 3.03A Prescribed condition of student visa](#)

For subsections **19 (2)** and **20 (1)** of the Act, a prescribed condition of a student visa is visa condition 8202, set out in Schedule 8 to the *Migration Regulations 1994*.

*Note* Subsections 19 (2) and 20 (1) of the Act make provision for a registered provider to notify the Secretary and an accepted student of a breach of a prescribed condition of a student visa.

**There is a range of details of which records must be kept by a registered provider, and records must be kept for a prescribed amount of time.**

**There must be a procedure to confirm current student contact details in writing at least every six months, and to update records accordingly.**

##### [s. 21 Record keeping](#)

###### *Records of students' details*

- (1) A registered provider must keep records of each accepted student who is enrolled with the provider or who has paid any tuition fees for a course provided by the provider.
- (2) The records must consist of the following details for each accepted student:
  - (a) the student's current residential address;
  - (b) the student's mobile phone number (if any);
  - (c) the student's email address (if any);
  - (d) any other details **prescribed by the regulations**.\*
- (2A) A registered provider must have a procedure to ensure that, at least every 6 months, while the student remains an accepted student of the provider:
  - (a) the provider confirms, in writing, the details referred to in subsection (2) with the student; and
  - (b) the records are updated accordingly.

###### *Records of assessment*

###### (2B) If:

- (a) an accepted student of a registered provider completes an approved unit of study for a course; and
- (b) the student's progress in that unit is assessed;

the provider must record the outcome of the student's assessment for the unit.

###### (2C) A record under subsection (2B) must be:

- (a) kept in accordance with any requirements prescribed by the regulations; and
- (b) kept up-to-date.

###### *Retention of records*

- (3) The provider must retain records kept under this section for at least 2 years

after the person ceases to be an accepted student. However, the records do not need to be kept up-to-date after the cessation.

Note: The Minister may take action under Division 1 of Part 6 against a registered provider that has breached this section.

***Meaning of approved unit of study***

(7) In this Act:

***approved unit of study*** for a course means a unit of study (however described) that has been approved for the course by a designated authority.

***\*For s.21.2 (d) of the Act, see below:***

[ESOS Regulations 2001 3.04 Details of which a registered provider must keep records](#)

For subsection 21 (2) of the Act, the records of each accepted student who is enrolled with a provider or who has paid any tuition fees for a course provided by the provider must include the following details:

- (a) the amount of money that the student has paid to the provider, including the separate identification of tuition fees and non-tuition fees;
- (b) for an amount of tuition fees that the student has paid to the provider for a course:
  - (i) whether the amount was paid for the full course or part of the course; and
  - (ii) if the amount was paid for the full course, the duration of the course; and
  - (iii) if the amount was paid for part of the course, the duration of that part of the course;
- (c) copies of written agreements to which the provider and student are parties;
- (d) any amounts that:
  - (i) have become payable, directly or indirectly, to the provider by the student for the student to undertake a course; and
  - (ii) have not been paid;
- (e) the amount that a student will be charged to access the student's records.

***See also:***

[3.05 Electronic records](#)

If records kept for the purpose of section 21 of the Act are kept electronically, they must be backed up.

[3.06 Fees for accessing records](#)

The fee for a student to access a record mentioned in regulation 3.04 must not exceed the cost incurred by the provider in providing access to that record.

**Notes**

Current versions of legislation should always be accessed for full details of requirements, and for other information such as penalties for failure to comply.

**More Information**

[SCV Quick Reference Guide](#)

[Timelines for Reporting Provider Obligations in Case Of Provider Default or Student Default](#) (p. 19)

[Checklist of Record Keeping and Reporting Obligations](#) (p.24)

## Checklist of record keeping and reporting obligations

- Notify PRISMS and TPS Director of Provider Default within 3 business days of default occurring.
- Attend to obligations in case of Provider Default within Provider Obligation Period of 14 days from day of Provider Default.
- Report how Provider Default obligations have been met within 7 days after Provider Obligation Period.
- Notify PRISMS and TPS Director of Student Default within 5 business days of default occurring.
- Attend to obligations in case of Student Default within Provider Obligation Period of 4 weeks from day of Student Default.
- Report how Student Default obligations have been met within 7 days after Provider Obligation Period.
- All changes to PRISMS records must be made within 14 days of the change coming into effect, including student course variations (SCVs). [See [SCV Quick Reference Guide](#).]
- Details of any payments of tuition fees received in a calendar month must be entered into PRISMS within 14 days of the end of the calendar month.
- Student contact details (and contact details for a parent / legal custodian if the student is under 18 years of age) must be confirmed in writing and updated as necessary at least every six months.
- Student assessment Records must be retained for at least two years after the student ceases to be enrolled.
- Student details prescribed under s.21(2) of the ESOS Act 2000 must be retained for at least two years after the student ceases to be enrolled.
- School Administration should be aware there are serious penalties for failure to meet provider obligations.

## Updates for key school documents

<b>Description</b>	<p>As a consequence of changes to the ESOS framework, schools will need to make corresponding adjustments to key documents related to enrolment of 571 visa subclass overseas students.</p> <p>In this section, updated versions of sample documentation are provided for</p> <ul style="list-style-type: none"><li>○ Letters of offer</li><li>○ Written agreement /acceptance of enrolment</li><li>○ School refund policy</li></ul>
<b>Requirements</b>	<p>Requirements for these documents are outlined above under</p> <ul style="list-style-type: none"><li>○ <a href="#">Overview of changes to the ESOS framework to establish the Tuition Protection Service (TPS)</a> (p. 6)</li><li>○ <a href="#">Overview of changes for tuition fees and non-tuition fees</a> (p. 13)</li><li>○ <a href="#">Checklist for tuition fees and non-tuition fees</a> (p. 15)</li><li>○ <a href="#">Overview of provisions and obligations for provider and student default</a> (p. 16)</li></ul>
<b>Notes</b>	<p>Schools will need to customise all documents. In the sample documents provided, schools should note recommended or suggested inclusions appear in <b>red</b> text.</p> <p>Schools may wish to seek legal advice relating to any changes to letters of offer and written agreements (including refund policies) with students and or other parties.</p>
<b>More Information</b>	<p><a href="#">What do I need to do to comply? Legislative checklist</a> <a href="#">What do I need to do to comply? Provider Brochure</a> <a href="#">What do I need to do to comply? FAQs</a></p>

## Checklist for letter of offer

- Letter of offer includes
  - the amount of *tuition fees* for the entire course
  - start date, end date and length of the course
  - the CRICOS code and name of the course
  - the CRICOS code for the provider of the course
- Letter of offer specifies any conditions of an enrolment placement

### [\(DIAC Minimum contents of a Letter of Offer\)](#)

- Any invoice or information about payment of *pre-paid fees* does not request more than 50% of the student's total tuition fees for a course before the student has begun the course.

(ESOS Act 2000 [s.27](#))

### *Notes:*

- The amount of *tuition fees* is calculated by aggregating the highest estimate per semester.
- The tuition costs may include the cost of health insurance where the education provider has arranged this on behalf of the student.
- If a letter of offer does not contain the information specified above, DIAC will need to estimate costs based on the highest tuition cost, and there may be a delay processing the application.

## Sample letter of offer

Legal Entity t/a *[Insert Name of School]*

CRICOS Provider Code:

Date:

*[Insert Parent Name and Address]*

Re: *[Insert Student Name, DOB]*

Dear.....

*[Insert Name of School]* has assessed *[insert student's name]*'s enrolment application for ..... and is pleased to confirm an offer of enrolment as follows:

Course:	<i>[Insert Course name]</i>	CRICOS Course Code:
Year Level(s):	Start date:	Finish date:
Estimate of Total Course Costs"	Tuition Fees:	Non-tuition fees:

Continuing enrolment will depend on:

- i. meeting any student visa conditions, including satisfactory course progress and attendance requirements,
- ii. agreeing to XXXX School's policies, including maintaining approved welfare and accommodation arrangements, and any further conditions of enrolment detailed in *Written Agreement / Acceptance of Enrolment* attached, and
- iii. payment of tuition and non-tuition fees by the due date.

To accept XXXX School's offer of enrolment, please sign and return the attached *[Written Agreement / Acceptance of Enrolment]* and arrange for fees to be paid as per invoice attached by *[insert date]*.

*[Insert payment details]*

Prior to accepting this offer of enrolment, please check all contact details on the *[Written Agreement / Acceptance of Enrolment]*, and ensure detailed information about **any medical conditions or learning needs has been provided**.

On receipt of a completed and signed *[Written Agreement / Acceptance of Enrolment]* and payment of fees, *[insert Name of School]* will issue a Confirmation of Enrolment for *[insert name of student]*'s student visa application.

Please advise date of visa grant and *[insert name of student]*'s arrival details so final

arrangements can be made in preparation for *his / her* commencement of studies at *[Insert Name of School]*.

Yours sincerely.....

*[Insert Name of School]*

## Checklist for written agreement / acceptance of enrolment

- Captures all necessary contact details and information required about an accepted student.
- Signed or otherwise accepted by the student / parent(s) / legal guardian(s) concurrently with or prior to accepting course money.
- Sets out services to be provided.
- Identifies the course or courses in which the student is to be enrolled.
- Identifies any conditions on enrolment/ preliminary requirements.
- Provides an itemised list of tuition and non-tuition fees payable for the student.
- Sets out study periods and tuition fees for each study period for the full duration of student's enrolment.
- Includes the school's refund policy which provides information in relation to refunds of fees paid, including:
  - amounts that may or may not be repaid to the student (including any course money collected by education agents on behalf of the registered provider) (NC St3.2.a)
  - processes for claiming a refund (NC St3.2.b)
  - a plain English explanation of what happens in the event of a course not being delivered (NC St3.2.c)
  - details of any refund paid if the school defaults as required under s46D of the ESOS Act 2000
  - details of any refund paid if the student defaults as required under s47D of the ESOS Act 2000
  - details of any refund in other cases as required under s47E of the ESOS Act 2000.
- Includes the statement: "This agreement, and the availability of complaints and appeals processes, does not remove the right of the student to take action under Australia's consumer protection laws". (NC St3.2.d)
- Sets out the circumstances in which personal information about the student may be shared between the registered provider and the Australian Government and designated authorities and, if relevant, the Tuition Protection Service. This information includes personal and contact details, course enrolment details and changes, and the circumstance of any suspected breach by the student of a student visa condition. (NC St3.1.d)

- Advises the student of his or her obligation to notify the registered provider of a change of address while enrolled in the course, and of the need to have prior approval (if relevant). [NC St3.1.e]
- Details of course duration and fees must align with details entered into PRISMS at time of creating CoE, for example:
  - Course duration must not exceed registered course(s) length in PRISMS
  - Total course fees in invoice should not exceed amount in PRISMS.
- *[Optional]* Advises current contact details will have to be confirmed at least every 6 months.
- *[Optional]* Requests permission for school to check visa status and entitlements online via VEVO for duration of enrolment.

*Notes:*

- Written agreements may cover more than one course if courses are similar, all requirements are met and if required information provided covers all courses.

See also the legislative references below for Written Agreements and Refund Policies:

National Code Part D [Standard 3](#)

ESOS Regulations [3.01](#)

ESOS Act 2000

- [s22](#)
- [s27](#)
- [s47B](#)

**Sample written agreement / acceptance of enrolment**

*[Insert Legal Entity t/a Name of School CRICOS Provider Code:.....]*

**1. CONTACT DETAILS** (Please check all contact details are correct.)

**a) Student details**

Student name:	
DOB:	
Nationality:	
Passport No and Expiry Date	
Visa No (If applicable)	
Address:	
Phone No:	
Mobile No:	
Email address:	1.
	2.
Current Year Level of Schooling	

**b) Parent(s)/legal guardian details:**

Parent/Legal Guardian Name:	1
	2
Address:	1
	2

Phone no:	1
	2
Mobile No	1
	2
Fax no:	
Email address:	1
	2

c) **Agent Contact Details (if applicable)**

Agency Name	
Contact person	
Address:	1
	2
Phone no:	1
	2
Mobile No	1
	2
Fax no:	
Email address:	1
	2

d) **Other contact details** [*e.g., Relative or other person who can speak English and who can be contacted if parents do not speak English*]

2. **Change of Address and Current Contact Details**

- a) The student is obliged to notify the school of any change of address while enrolled at the school. This is to ensure that any notifications sent to the student advising of visa breaches are sent to the student's current address.
- b) Where [*insert Name of School*] has approved the student's welfare and accommodation arrangements, the student requires both the school's and the parent's approval for any changes to welfare and accommodation arrangements.

- c) The school is required by law to request confirmation of current address and contact details in writing for each student (and parent or legal guardian if a student is under 18 years of age) at least every six months.

3. **Preferred method of contact for confirming contact details in writing every six months, as required by law:**

<input type="checkbox"/>	Fax	<input type="checkbox"/>	Email
<input type="checkbox"/>		<input type="checkbox"/>	

4. **Course enrolment details**

a) CRICOS Course Code:

b) Course Type and Entry level

<input type="checkbox"/>	Primary	Year Level
<input type="checkbox"/>	Junior Secondary	Year Level
<input type="checkbox"/>	Senior Secondary	Year Level
<input type="checkbox"/>	Other	

5. **Course Start and End Date**

a) Course start date: \_\_\_\_\_

b) Course end date: \_\_\_\_\_

6. **Conditions on enrolment/preliminary requirements**

- a) Depending on the student's English language ability, the student may be required to successfully complete an ELICOS course.

*[Insert any details of any ELICOS or English language proficiency requirements prior to entry to mainstream classes. Schools would normally ask for evidence of the student's English language ability e.g. English language test scores during the application process.]*

- b) *[Recommended inclusion]*

As a condition of enrolment, the student authorises *[insert Name of School]* to check visa entitlements electronically via VEVO for the duration of enrolment on the Department of Immigration and Citizenship website:  
[http://www.immi.gov.au/e\\_visas/vevo.htm](http://www.immi.gov.au/e_visas/vevo.htm).

- c) As a condition of enrolment, the student agrees to abide by all school policies *[Attach / insert links / location of policies]* referred to below for the duration of their enrolment and to disclose any medical or health conditions that may affect studies or student welfare *[include reference / link to all relevant school policies. These could include:]*

- Accommodation Policy
- Complaints and Appeals Policy
- Course Progress and Attendance Policy
- Behaviour Policy/Code of Conduct
- Student Transfer Request Assessment Policy
- Deferment, Suspension and Cancellation Policy
- Refund Policy.

7. **Course fees and other charges (course monies)**

a) **TUITION FEES:**

*[Insert Study Periods and Tuition Fees for length of student's enrolment. N.B. Tuition fees include tuition fees, fees for compulsory course materials, and any compulsory enrolment or administration fees that apply during the entire period of enrolment. Tuition fees will vary depending on the nature of the course being offered. Published fees will be known; future fees may need to be estimated.]*

Semester	Year	A\$
Semester ...	Year ...	A\$ ...

b) **NON-TUITION FEES**

- i. Overseas Student Health Cover (OSHC): A\$X per semester for visa duration
- ii. Home stay fees (where applicable): A\$X per semester / Boarding fees (where applicable): A\$X per semester
- iii. Any other course related fees *[if not compulsory, e.g., excursion fees, course material, etc., ]* A\$X per semester
- iv. Estimated cost of school uniforms: A\$X
- v. Fees for special/medical needs (if applicable): A\$X per semester

c) **ESTIMATE of TOTAL COURSE COST: A\$X**

*[Schools must ensure all compulsory fees required to undertake the course are included in tuition fees. For example, in some states there is a fee to be paid to undertake a secondary certificate. Any information regarding expected increases in course fees should be included here also.]*

8. **Payment of Course Fees and Refunds**

- a) Fees are payable as per **Fees Policy**.
- b) **All fees must be paid in Australian dollars.**
- c) **[Optional inclusion] If the student changes visa status (e.g. becomes a temporary or permanent resident) he/she will continue to pay full overseas student's fees for the duration of that calendar year.**
- d) Any refund of tuition fees in the event of visa refusal or school default is prescribed by legislation (Education Services for Overseas Students (ESOS) Act 2000 and Regulations 2001).
- e) Any refund of tuition fees or non-tuition fees for student default will be paid as per *[insert Name of School]*'s Refund Policy, which is part of this agreement.
- f) Refunds will be reimbursed in Australian dollars and the payment sent to the applicant's home country unless otherwise requested in writing.
- g) Refunds will be paid to the student or the person specified in the written agreement.

9. **Refund Policy**

**[IMPORTANT – Insert full copy of Refund Policy covering both provider and student default here. See p.38]**

10. **Welfare and accommodation requirements for students under the age of 18**  
**[recommended inclusion]**

- a) **Students under the age of 18 are required to maintain adequate welfare and accommodation requirements as a condition of their student visa.**
- b) **Where a student under the age of 18 is not in the care of a parent or suitable relative, as defined by the Department of Immigration and Citizenship, their accommodation arrangements must be approved by the school.**
- c) **Will the student in the care of a parent or suitable relative?**

<input type="checkbox"/>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>
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- d) **If no, type of accommodation school has approved for the student:**

<input type="checkbox"/>	<b>Homestay</b>
<input type="checkbox"/>	<b>Supervised Accommodation Service</b>
<input type="checkbox"/>	<b>Other</b>

e) Details of approved welfare and accommodation arrangements:

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f) Dates for approval of welfare and accommodation arrangements:

Start date: \_\_\_\_\_.

Finish date: \_\_\_\_\_

(Please note, students should not arrive in Australia before the approved start date, and if under 18 years of age before completing the enrolled course, should not remain in Australia without prior approval after the approved finish date.)

*[For more information, see National Code Standard 5 – Younger students]*

## 11. Privacy

Information is collected on this form and during your enrolment in order to meet our obligations under the ESOS Act and the National Code 2007; to ensure student compliance with the conditions of their visas and their obligations under Australian immigration laws generally. The authority to collect this information is contained in the Education Services for Overseas Students Act 2000, the Education Services for Overseas Students Regulations 2001 and the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007. Information collected about you on this form and during your enrolment can be provided, in certain circumstances, to the Australian Government and designated authorities and, if relevant, the Tuition Protection Service. In other instances information collected on this form or during your enrolment can be disclosed without your consent where authorised or required by law.

*[This follows suggested wording available at <https://aei.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/National-Code/nationalcodepartd/Documents/suggested%20wording.pdf>]*

For more information on privacy, please refer to *[insert Name of School]*'s Privacy Policy at X.

## 12. Declaration

All students and parent(s)/legal guardian (if student is under 18 years of age) must read and sign this written agreement.

- I confirm I have received and understood information from the school regarding the following:
  - the course(s) in which I am to be enrolled
  - conditions of enrolment in the course(s)

- all course and course-related tuition and non-tuition fees
  - XXXX School's Refund Policy and other policies as listed in 6, above.
  - the sharing of personal information
  - change of address obligations
  - grounds on which my enrolment may be deferred, suspended or cancelled
  - permission to use VEVO to check visa entitlements during period of enrolment  
*[recommended inclusion]*
- I hereby declare that the information supplied by me is true and correct.
  - I agree to pay all fees owing and by the due date.
  - I have read, understood and agree to be bound by the above conditions of enrolment.

Signed (student)	Date
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Signed (parent(s)/legal guardian)	Date
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## Sample refund policy

1. This policy outlines refunds applicable to course fees paid to the school *[optional inclusion]* including any course fees paid to an education agent to be remitted to the school. *e.g., in the case of course fees collected by IDP.*
2. *[Optional inclusion]* Any service fees a student (or parent(s)/legal guardian if the student is under 18) pays directly to a third party are not within the scope of this refund policy.
3. *[Optional inclusion]* The enrolment application fee is non-refundable.
4. Payment of Course Fees and Refunds
  - a) Fees are payable according to ...*[the School's Fees Policy / the invoice attached...]*.
  - b) An itemised list of school fees is provided in the school's written agreement *[as per NC Standard 3.1.b]*
  - c) All fees must be paid in Australian dollars unless requested otherwise. Refunds will be reimbursed in the same currency as fees were received.
  - d) Refunds will be paid to the person who enters into the written agreement.
5. All notification of withdrawal from a course, or applications for refunds, must be made in writing and submitted to *[insert appropriate person]*.
6. Student default because of visa refusal

*[Insert one option]*

If a student's visa application is refused by the Department of Immigration and Citizenship and the student cannot undertake the course, the school will refund within four weeks any unspent pre-paid fees where the student produces evidence that the application made by the student for a student visa has been refused by the Australian immigration authorities.

*[or]*

If a student's visa application is refused by the Department of Immigration and Citizenship and the student cannot undertake the course, the school will refund within four weeks any unspent pre-paid fees where the student produces evidence that the application made by the student for a student visa has been refused by the Australian immigration authorities, minus the lesser of 5% of the amount of pre-paid fees received or AUD 500, as prescribed by the relevant Legislative Instrument.

## 7. Student default

- a) Any amount owing under this section will be paid within 4 weeks of receiving a written claim from the student (or parent(s)/legal guardian if the student is under 18),
- b) Non-tuition fees will be refunded... *[ provide details, e.g., on a pro rata basis proportional to the amount of time the student was studying in the course, except where a non-refundable payment on behalf of the student has been made ]*.
- c) If the student does not provide written notice of withdrawal and does not start the course on the agreed starting date, ... *[provide details, e.g., a maximum of ten weeks tuition fees will be refunded from prepaid tuition fees]*.
- d) If up to two semester's tuition fees have been prepaid, and the school receives written notification of withdrawal by the student (or parent(s)/legal guardian if the student is under 18), the school will refund the amount of prepaid fees **less** the following amounts:
  - i. *An administration fee of ....[include details of the administration fee or other non-refundable fees] if written notice is received up to four weeks prior to commencement of the course.*
  - ii. *X % of the tuition fee if written notice is received less than four weeks prior to commencement of the course.*
  - iii. *X % of any unspent pre-paid tuition fees, up to a maximum of one term's fees, if written notice is received within six months following the commencement date of the student's course.*
- e) *No amount will be refunded if written notice is received more than six months after the commencement date of the student's course.*
- f) *If more than two semester's tuition fees have been prepaid in one amount, refund provisions under (b) will apply for tuition fees paid for the first two semesters, and any remaining unspent tuition fees after this will be refunded.*
- g) No refund of tuition fees will be made where a student's enrolment is cancelled for any of the following reasons:
  - i. *Failure to maintain satisfactory course progress (visa condition 8202). Please see [Please see School Policy Ref]*
  - ii. *Failure to maintain satisfactory attendance (visa condition 8202). Please see [Please see School Policy Ref]*
  - iii. *Failure to maintain approved welfare and accommodation arrangements (visa condition 8532). [If applicable: Please see School Policy Ref ]*
  - iv. *Failure to pay course fees.*

- v. **Any behaviour identified as resulting in enrolment cancellation in *[insert Name of School]*'s Behaviour Policy/Code of Conduct. *[Schools should list the criteria here]***

## 8. Provider default

*[Any default by the school must be compliant with the current provisions of the ESOS Act 2000 and the ESOS regulations 2001 (as amended).]*

- a) If for any reason the school is unable to offer a course on an agreed starting day for the course, and the student for some reason cannot be placed or refuses placement in an alternative course arranged by the school, a full refund of any unspent pre-paid tuition fees\* paid to the school will be made within 14 days of the agreed course starting day.
  - b) If for any reason the school is unable to continue offering a course after the student commences a course, and the student for some reason cannot be placed or refuses placement in an alternative course arranged by the school, a full refund of any unspent pre-paid tuition fees\* paid to the school will be made within 14 days of the school's default day.
  - c) In the event that the school is unable to fulfil its obligations of providing an agreeable alternative course for the student, or a refund, the student will receive advice to seek assistance from the Australian government's Tuition Protection Service. For information on the TPS, please see: <https://tps.gov.au/Information/Students/How> .
9. This agreement, and the availability of complaints and appeals processes, does not remove the right of the student to take action under Australia's consumer protection laws.

*[Optional inclusion]*

### Definitions

- a. **Non-tuition fees** – fees not directly related to provision of the student's course, including *[insert description of non-tuition fees]*.....
- b. **Pre-paid fees** - tuition fees received by the school for a study period of the student's course before the student begins the study period.
- c. **Tuition fees** – fees directly related to the provision of the student's course, including *[insert description of tuition fees]*.....

\* *Unspent pre-paid tuition fees* – in the case of the school not being able to provide the course in which the student is enrolled, unspent prepaid tuition fees will be calculated according to a Legislative Instrument: <http://www.comlaw.gov.au/Details/F2012L01351>.

*[Optional: Schools may wish to include information in Fees Policy about what happens if the student has a change of visa status, e.g.,]*

If the student changes visa status (e.g. becomes a temporary or permanent resident) he/she will continue to pay full overseas student's fees for the duration of that year.

Notes:

- A copy of this policy is provided to the student (or parent(s)/legal guardian if the student is under 18) at a reasonable time prior to a written agreement being signed.

More  
Information

See above [Overview of provisions and obligations for refunds, reporting and record keeping in event of provider and student default](#) (p. 16) for requirements for refunds in the case of :

- Provider default;
- Student default under a written agreement, and
- Visa refusal and student default not covered by a valid written agreement

## Sources of information for CRICOS registered schools

### 1. Sources of information about compliance requirements for CRICOS registered schools

- **ESOS legislative framework**  
<https://aei.gov.au/regulatory-information/pages/regulatoryinformation.aspx>
- **Recent changes to ESOS**  
<https://aei.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Review/Pages/Changescommencing1July.aspx>
- **ESOS FAQs**  
<https://aei.gov.au/Regulatory-Information/Pages/Frequently-Asked-Questions.aspx>
- **PRISMS home page**  
<https://prisms.deewr.gov.au/Logon/Logon.aspx>
- **PRISMS Provider User Guide**  
[https://prisms.deewr.gov.au/Information/ShowInformation.aspx?Doc=Provider\\_User\\_Guide&key=information-provider-user-guide&Heading=](https://prisms.deewr.gov.au/Information/ShowInformation.aspx?Doc=Provider_User_Guide&key=information-provider-user-guide&Heading=)
- **Student Visa Program**  
<http://www.immi.gov.au/students/>
- **Education Providers' Roles and Responsibilities (Student Visa Program)**  
[http://www.immi.gov.au/business-services/education-providers/roles\\_responsibilities.htm](http://www.immi.gov.au/business-services/education-providers/roles_responsibilities.htm)
- **Knight Review of the Student Visa Program**  
<http://www.immi.gov.au/students/knight/>
- **Independent Schools Council of Australia**  
<http://isca.edu.au/information-for-schools/educational-services-for-overseas-students/>

### 2. Key contacts for CRICOS registered schools

- **ESOS Enquiries:**  
<https://aei.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOsenquiries/Pages/Default.aspx>
- **PRISMS Helpdesk:**  
(02) 6102 8960 and [prisms@innovation.gov.au](mailto:prisms@innovation.gov.au)
- **CRICOS Contacts:**  
<http://cricos.deewr.gov.au/Contacts/CRICOSContacts.aspx>
- **DIAC Contacts:**  
<http://www.immi.gov.au/about/charters/client-services-charter/contact.htm>  
<http://www.immi.gov.au/contacts/offices.htm>