

LEGISLATIVE & DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION (DIBP) CHANGES FOR INTERNATIONAL STUDENTS FROM 1 JULY 2012 (TAFE NSW)

Change	Summary	Institute Action Required for Compliance
An alternative contact for a Parent/Guardian will be mandatory for all students under the age of 18 years.	Requirement to enter into PRISMS contact details for a second person legally able to act for a student under 18, e.g. a parent or legal guardian.	<ul style="list-style-type: none"> • ELICOS application forms must identify U18 students & must provide parent/ guardian contact details. • ELICOS centres enrolling under 18 students must ensure parent/ guardian details are entered in PRISMS at point of CoE. <p>(DECI has implemented process for VET/HE & ELICOS package students).</p>
Automatic and mandatory visa cancellations have been abolished from 13 April 2013	<p>The removal of automatic and mandatory cancellation requirements will provide fairer outcomes for students by allowing DIBP to take into account the individual circumstances of a student when considering a breach of visa condition.</p> <ul style="list-style-type: none"> • Student visa holders will still need to abide by the conditions of their visa, including maintaining course progress and attendance. • Education providers will be required to report students who breach course progress or attendance requirements to DIBP and must still advise the student that they intend to report the visa condition breach. • Section 20 Notice (the letter advising students of automatic visa cancellation) generated by PRISMS when a student is reported for a breach will no longer be generated. 	<ul style="list-style-type: none"> • Intention to report letters and appeals process will continue as currently exists. • DECI will still report a student if they breach their visa conditions and report this information to DIBP for action via PRISMS. • DECI will email DIBP on Student.Integrity.NSW@immi.gov.au to advise when a student has been reported via PRISMS, and provide background information on the breach and some general advice on the position of the Institute on the students' ability to be compliant. (This is an additional step and requirement for Institutes and DECI). • Providers have the discretion to exclude students from attending class if they believe the student is not genuine. If this occurs, providers should advise students to continue to abide by the conditions of their student visa, including ensuring that they maintain enrolment in a registered course. DIBP may initiate contact with the student visa holder to further discuss the breach.
ESOS Act Section 5/7 Changes to definitions	Agreed starting day, default day, approved unit of study, pre-paid fees, study period, tuition fees.	<ul style="list-style-type: none"> • Ensure that relevant staff are aware of these changes. • ELICOS Centres to implement fee payment requirements for ELICOS only students. <p>(DECI has implemented process for VET/HE & ELICOS package students).</p>

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ESOS Act Part 2 Division 3 Registration of providers	Division restructured and revised to implement national registration: <ul style="list-style-type: none"> • course at a location may be added to an existing registration. • if a new location added a risk managed assessment at that location is required according to 9AB. • clarifies requirements for renewing registration. • clarifies requirements for imposing risk based conditions. 	N/A
ESOS Act Sections 14A/B The register	Clarifies information that must be on CRICOS: <ul style="list-style-type: none"> • all or part of the Register may be made public • each course at each location • period of registration • any conditions or sanctions. 	<ul style="list-style-type: none"> • Part of CRICOS registration process. Institutes nominating courses for CRICOS registration to provide listed details.
Section 19 Giving information about accepted students	Under this amendment, a registered provider must give particulars of a breach by an accepted student of a prescribed condition of a student visa, even if the student has ceased to be an accepted student of the provider (e.g. a student cannot avoid being reported to DIBP for non-attendance or failure to progress by cancelling their CoE with the provider).	<ul style="list-style-type: none"> • Institutes & DECI to develop procedures to ensure that students are reported for non-attendance (ELICOS) or failure to progress, regardless whether they withdraw or discontinue their enrolment.
Section 21 Record Keeping	Strengthened requirements: <ul style="list-style-type: none"> • a procedure to confirm in writing and update student contact details (address, and mobile and email if any) at least every 6 months . • update records of assessment when the student completes an approved unit of study for a course. 	Institutes to establish processes to: <ul style="list-style-type: none"> • Ensure that changes to student contact details are updated on SIS promptly. • Ensure that up-to-date academic records are kept/ timely recorded for every unit of study completed and assessed for each enrolled students. • Contact details are uploaded from SIS to TISIMS system.
Section 22 Study Periods	<ul style="list-style-type: none"> • Written agreement must include length of each study period for the course and the tuition fees for each study period for the course. • Study period may be no more than 24 weeks . • There is flexibility in how a study period is defined in the written agreement. 	<p>TAFE NSW ELICOS centres to:</p> <ul style="list-style-type: none"> • Identify/ define length of study period on relevant documents. • Develop a written agreement with each student which includes the length of study period and tuition fees for that study period . • Update offer letters and other correspondence to incorporate changes. <p>(DECI has developed these documents for VET/HE & ELICOS package students).</p>

Change	Summary	Institute Action Required for Compliance
Sections 24 & 26 Tuition Protection Scheme (TPS) levies	Requirements on providers to pay a TPS levy for each calendar year and disclosing information related to determining the amount of the levy.	N/A (DECI manages the TPS levy)
Section 27 Pre-paid fees	Limits on prepaid tuition fees: <ul style="list-style-type: none"> • must not receive more than 50% of the student's total tuition fees for a course before the student has begun the course unless the course has only one study period (i.e. 24 weeks or less). • must not require any remaining fees earlier than 2 weeks before the start of the student's second study period. 	TAFE NSW ELICOS centres to: <ul style="list-style-type: none"> • Amend letters of offer to ensure compliance with pre-paid fees requirements • Notify ELICOS only agents of fee changes and processes • Amend fees process to comply with new timeframes. (DECI has implemented processes for VET/HE & ELICOS package students)
Section 46 B Notification of provider default	Requirement to notify: <ul style="list-style-type: none"> • the Secretary (or delegate) and TPS Director within 3 business days of provider default. • Notify students in writing. 	Institutes to establish processes to: <ul style="list-style-type: none"> • Notify Director, International Students of provider default relating to cancellation of courses students are enrolled in, including cancellation at a specific location within timeframe required. • Assess risk of course cancellations/provider defaults when advising DECI of course offerings for international students. (DECI will report defaults through PRISMS).
Section 46D Obligations in case of provider default	Within 14 days: <ul style="list-style-type: none"> • either offer the student an alternative place at the provider's expense, that is accepted by student in writing or • refund the student the unused portion of the prepaid fees. 	Institutes to offer alternative course offerings where possible and advise DECI of outcome within timeframe required. If student wishes to receive a refund instead of another course, advise DECI of the outcome so that refund can be processed.
Section 46F Notify outcome of provider default	Requirement to notify the Secretary (or delegate) and TPS Director of the outcome of a provider default within 7 days of the provider obligation period: <ul style="list-style-type: none"> • Details of alternative course or refund. 	N/A - DECI to action as per advice received from Institute re 46D.
Section 47 Written agreement for student default	Provider to have a written agreement setting out the refund requirements in case of student default.	ELICOS centres to implement a written agreement with students. (DECI has developed this document for VET/HE & ELICOS package students).

Change	Summary	Institute Action Required for Compliance
Section 47C Notification of student default	Requirement to notify the Secretary (or delegate) and TPS Director of student default within 5 business days.	Institutes to establish systems and processes to: <ul style="list-style-type: none"> Identify and report students to DEC International who have not commenced their courses on expected start day. Provide list of student non-arrivals within 3 days of semester commencement date.
Section 47D Refund for student default under written agreement	Requirement to refund student in accordance with the written agreement within 4 weeks after receiving a written claim except for visa refusal.	TAFE NSW ELICOS centres to ensure refund processing guidelines comply with requirement.
Section 47E Refund in other cases	Where a provider has not entered into a written agreement that complies with section 47B or where a student has been refused a visa, the provider must pay the student a refund worked out in accordance with the legislative instrument under subsection 47E.	N/A
Section 47H Notify outcome of student default	Providers to notify Secretary (or delegate) and TPS Director of outcome of discharge of obligations in cases of student default within 7 days of the end of the default period.	Institutes to work with DECI to develop a process to follow up outcome of student defaults.
Section 49C TPS Student placement	If a registered provider of an alternative course offers the student a place in the course, the student may accept the offer in writing within 30 days after the end of the provider obligation period unless the period is varied by the TPS Director.	N/A