



ESOS Regulations 2019

Education Services for Overseas Students

Regulations 2019 – Policy Questions & Answers

This document provides policy information for providers to explain the differences between the *Education Services for Overseas Students Regulations 2019* (ESOS Regulations) and the previous version of the ESOS regulations, the *Education Services for Overseas Students Regulations 2001*.

The ESOS Regulations commenced on **1 October 2019**. Registered providers must comply with the ESOS Regulations, including by giving information in the Provider Registration and International Student Management System (PRISMS).

Questions & Answers

Why have some definitions been removed from the ESOS Regulations?

See section 5 of the ESOS Regulations.

Some definitions have been removed from the ESOS Regulations as they duplicated definitions in the *Education Services for Overseas Students Act 2000* (ESOS Act) or were no longer needed.

What is the difference between tuition fees and non-tuition fees?

See section 7 of the ESOS Regulations.

The ESOS Regulations include a definition of non-tuition fees, and also prescribe the classes of fees that are considered tuition and non-tuition fees. Tuition fees include fees for lectures, tutorials, tutoring sessions, training, excursions, fieldwork, laboratories, or practical experience that form part of the student's course (whether mandatory or not) or are intended to assist the student to progress in their course, or are ancillary to the activities that form part of the student's course listed previously. Non-tuition fees include books and equipment, health insurance, administration, accommodation, and assistance to apply for or hold a student visa.

Including the definition of non-tuition fees supports providers to fulfil their responsibility to give information on tuition and non-tuition fees as required by the ESOS Regulations. The estimated total tuition and non-tuition fees for a course provides valuable consumer information to prospective students and supports providers' compliance with the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code) with respect to marketing courses. Information on the tuition and non-tuition fees paid by a student in accordance with the

terms of their written agreement supports the calculation of refunds in the event of a provider closure.

Why do I need to provide the name and contact details of my principal executive officer?

See section 8(1)(g) of the ESOS Regulations.

If a provider is not a public provider and is not an individual, it must give the name, phone number and email address of the provider's principal executive officer. Collection of this information assists the regulators to monitor providers' compliance with the ESOS Act by providing more visibility of ownership and management.

Why don't I need to give domestic student numbers?

The requirement for providers to give domestic student numbers has been removed, as this information was not deemed necessary for the regulators to fulfil their responsibilities.

The previous version of the regulations exempted public providers from recording fee payments received from students during a calendar month. Is this a new requirement in the ESOS Regulations for public providers?

See section 11(2) of the ESOS Regulations, Item 13 of table.

At this point in time and until further notice PRISMS does not have the functionality to accept information about fee payments received by public providers. The regulators are aware that the current functionality of PRISMS prevents public providers from meeting this requirement.

Private providers should continue to update fee payments received from students during a calendar month within the applicable number of days.

All providers will be notified if this requirement under the ESOS Regulations is amended.

Why do I now need to give the name and contact details of the individual responsible for the provider with which I have an arrangement to provide a course?

See sections 8(2)(f)(ii)-(iii), 8(2)(g)(iv) and 8(2)(h) of the ESOS Regulations.

If a provider is registered to provide a course at a location in accordance with an arrangement with another provider (whether registered or not), it must give the name, phone number and email address of the individual who is responsible for the day-to-day operation of the other provider at the location. Collection of this information assists the regulators to monitor providers' compliance with the ESOS Act by providing more visibility of ownership and management with respect to the delivery of courses by arrangement with another provider.

Why are the ESOS Regulations now more specific about the level and field of study of courses?

See section 8(3).

The requirement for providers to give information about the level and field of study of each course has been included in the ESOS Regulations as a formal requirement, with reference to the Australian Qualifications Framework and the Australian Standard Classification of Education. Previously, examples of the type of information required were described in the notes to the previous version of the regulations.

Requiring courses to be recorded on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) using these national standards provides improved consistency and integrity in data collection, and may assist students in choosing a course.

Has the information I need to provide on students' English language proficiency changed?

See section 9(q)-(r) of the ESOS Regulations.

Providers must give information on students' English language proficiency in relation to student visas, specifically:

- If the student has undertaken an English language test for the purposes of a student visa, providers are required to report the name of the English language test, the date the student took the test and the score the student received.
- If a student was exempt from taking an English language test under the *Migration Regulations 1994*, providers must report the relevant class of applicant the student is, (referred to as evidence exemptions in the *Migrations Regulations 1994*).

[Migration \(IMMI 18/015: English Language Tests and Evidence Exemptions for Subclass 500 \(Student\) Visa\) Instrument 2018](#) establishes the current English language tests, minimum scores and evidence exemptions.

Including this additional detail improves data integrity by aligning the information on each student's enrolment directly to student visa requirements and exemptions.

The Department of Home Affairs is responsible for student visa policy and requirements for student visas are subject to change.

What information do I need to give on agents and their employees?

See section 11(2) of the ESOS Regulations, Item 1 of table.

Where an agent of a provider facilitated the student enrolment, the ESOS Regulations require providers to give information in PRISMS on the agent. Where the agent is a body corporate (ie not an individual) give information of the company's Director(s), as well as the person who was involved in facilitating the enrolment. This may be the manager of a branch of the agent and/or another employee of the agent.

Collection of this information provides a more detailed picture of agent activity across the international education system and over time. This supports regulators to monitor providers' compliance with the ESOS Act and the National Code with respect to their agents and provide a more detailed picture of agent performance for providers and students.

Why do I need to record the student's address, phone number and email address in PRISMS, and update student contact details any time they change?

See section 11(2) of the ESOS Regulations, Item 3 of table and section 9(a).

The ESOS Regulations require providers to update student contact details within 31 days of becoming aware of the change.

Providers must also update student contact details if a student does not begin their course when expected (unless an exemption applies) within 14 days for students under 18 years old and within 31 days for all other students.

Keeping information in PRISMS as up to date as possible assists providers to effectively comply with the ESOS framework and supports student well-being by enabling providers and the Australian Government to contact students in a timely manner, such as in the event of a provider closure.

The requirement to update PRISMS within the acceptable number of days of any change to an enrolment is also critical to the administration of Australia's laws relating to student visas.

What other information do I need to give when a student's situation changes?

See section 11(2) of the ESOS Regulations, Items 6-9 of table.

When a student changes their **course**, in addition to the student's contact details, providers must give the day the student changes their course.

When a student's course changes **duration**, in addition to the student's contact details, providers must give the day the change takes effect.

When a student's course changes **location**, in addition to the student's contact details, providers must give the day the change takes effect.

When a student's course is **deferred or suspended**, in addition to the student's contact details and the expected duration of the deferment or suspension, providers must give the date the deferment or suspension starts.

Keeping information in PRISMS as up to date as possible assists the regulators to monitor providers' compliance with the ESOS Act and the National Code.

What are the reporting timeframes for the prescribed matters in the table under section 11(2) of the ESOS Regulations?

See section 11(2) of the ESOS Regulations.

Generally, providers must report the information in column three of the table, within 31 days after the event in column one occurs, subject to any condition mentioned in column 2 being satisfied. Item 12 is the exemption and the details in column three must be reported within 14 days where the student is under 18 years old and 31 days for all other students.

Why do I need to give more information about students who have breached certain conditions of their student visas?

See section 11(2) of the ESOS Regulations, Item 11 of table.

Providers must give more prescribed information about students who have breached a condition of a student visa with respect to course attendance or progress requirements; specifically, the student's contact details, their residential address in Australia and their residential address overseas. Collection of this information will help support the integrity of Australia's student visa framework.

What information do I need to give when a student's course is terminated?

See section 11(2) of the ESOS Regulations, Item 12 of table.

Providers must give information in the event that the student's course is terminated before the course is completed, whether the studies were terminated by the student or the provider. In addition to the student's contact details, providers must now give the day the student's course is terminated as well as the last day of the student's studies.

This ensures that the information is given regardless of the initiator of the termination. It assists the regulators to monitor providers' compliance with the ESOS Act and the National Code and helps support the integrity of Australia's student visa framework.

Disclaimer

The Department of Education, Skills and Employment provides general information and assistance to registered providers and overseas students on the *Education Services for Overseas Students Act 2000* and its associated legislative instruments.

However, such information or assistance should not be relied on as legal advice or as a substitute for undertaking your own enquiries or legal advice. Overseas students and education providers should seek independent legal advice as appropriate.