

EDUCATION SERVICES FOR OVERSEAS STUDENTS AMENDMENT (QUALITY AND INTEGRITY) BILL 2024

01 JULY 2024





ABOUT THE REGIONAL UNIVERSITIES NETWORK

The Regional Universities Network (RUN) welcomes the opportunity to comment on the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024

RUN is a national collaborative group of seven regional Australian universities: Charles Sturt University, CQUniversity Australia, Federation University Australia, Southern Cross University, University of New England, University of Southern Queensland, and University of the Sunshine Coast.

This submission reflects the positions of RUN institutions, and in doing so, also aims to represent the views of those students and communities which RUN universities serve; the one-third of Australians who live outside of metropolitan centres in Regional, Rural and Remote locations.

For further information please contact RUN on 0408 482 736 or info@run.edu.au.

TABLE OF CONTENTS

Overview	4
Recommendations	7
Context	8
Value of Higher Education providers in Australia's international education sector	8
Urban scale, and regional capacity to respond to major changes	8
Additional challenges of regional placement	8
Capped allocation via course	10
International students and accommodation dynamics	11
The timing of changes	12
Integrity, accountability and transparency	13
Amendments	15
Part 1 — Education agents and commissions	15
Part 2 — Giving information to registered providers	15
Part 3 — Management of provider applications	15
Part 4 — Registration requirements	15
Part 5 — Automatic cancellation of registration	15
Part 6 — Investigation of offences	16
Part 7 — Enrolment limits	16
Part 8 — Automatic cancellation of specified courses	17
References	18

OVERVIEW

Australia should be rightly proud of the world-class international education sector that it has carefully developed over the course of decades. This development has resulted in the international education sector becoming Australia's single largest service export industry¹. Australia's standing as one of the leading global educators is testament to the trust that millions of international students have placed in Australia over many years. These students have been empowered by a qualification that is highly regarded by global employer pools, while becoming ambassadors of Australia's capabilities by exporting Australian values, skills, and a cultural affinity to the world. Those that remain in Australia following graduation are welcomed for the invaluable contributions they make to Australia's culture, society, and economy.

International students studying in Australia are an essential component to Australia's economic mix, strengthening our economy and helping pay for the essential services relied upon by all Australians. Indeed, the \$48bn that international students generated in Australia in 2023 is estimated to have accounted for over half of Australia's economic growth in that year². Of this spend, an estimated 40 per cent is captured by education providers as tuition fees while the remainder is distributed across the broader economy via the consumption of goods and services³. As such, Universities Australia estimates that the employment of approximately 250,000 Australians was linked to this important industry prior to COVID (2019) across the sectors of education, retail, hospitality and tourism⁴.

The importance of this industry to Australia underscores its need to remain characterised by the highest levels of integrity, quality, and sustainability. RUN recognises the role that the university sector has historically played in promoting an exemplary high quality, low-risk culture within the broader international education industry. RUN supports measures that seek to sustain the world's trust in Australia's education sector, alongside the social licence granted by Australian society for its continued operation. This

submission reflects upon these objectives, from a perspective of regional nuance and understanding.

Regional Australia benefits greatly from the social, cultural, and economic contributions made by international students. Australia's regions are made more vibrant, inclusive, and prosperous by the welcoming of students from all cultures. International students and graduates who settle in regional communities play an important role in addressing key skill shortages, boosting global perspectives within regional classrooms and workforces, and in suppressing the growing skills divide with metropolitan Australia. RUN believes there is a strong case for regional Australia hosting a greater share of Australia's international student cohort, and for regional Australia welcoming a greater proportion of those international students who choose to remain in Australia post-graduation.

Despite the regions being home to almost four in every ten Australians, and featuring many world-class universities, just three and a half per cent of onshore international students (year-to-date October 2023) attended a regional campus⁵. A further maldistribution occurs at an institutional level, whereby over 50 per cent of all international students in Australia in 2022 were attending one of eight large metropolitan universities⁶. Twenty per cent of Australia's international university students are spread across 20 institutions, despite those 20 universities representing over half of Australian's total university count. This maldistribution is a key factor contributing to the growing resource asymmetries that exist between Australia's public universities.

RUN argues that international education is a national interest whose immense benefits ought to be more equitably distributed, rather than continue to become increasingly concentrated to a limited number of providers serving only a few of the many diverse social missions that exist within Australia's university sector.

OVERVIEW

There are, however, many challenges in attracting large numbers of international students to regional campuses. While RUN universities demonstrate high levels of success in supporting those international students who do elect regional study, the reality remains that many regional universities rely upon metropolitan CBD campuses to engage with international cohorts. These CBD campuses offer the same high levels of academic opportunities and support as found on the regional campuses of RUN institutions. Importantly though, these metropolitan campuses allow regional institutions to participate – albeit modestly – in Australia’s international student market on a more equal footing to metropolitan universities.

The CBD campuses of regional universities are firmly linked to the ongoing viability of university facilities, services and opportunities provided to regional Australian communities by RUN institutions.

RUN highlights the importance of nuance in designing policy that impacts the engagement of international cohorts by regional universities, recognising that any major disruption to the sector is typically exacerbated by factors relating to diseconomies of scale, which tends to leave the social missions of RUN universities more exposed to unintended consequences. It is RUN’s concern that the universities most likely to be impacted by the changes introduced by the *Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024*, as the legislative mechanism to administer the Government’s broader managed growth policy, will be those regionally-based institutions who not only host the sector’s highest concentrations of domestic equity enrolments, but whose ongoing viability in regional areas is directly linked to international enrolments at both regional and metropolitan campuses.

RUN universities have witnessed the highest proportional declines in international student revenue since COVID⁷, the largest reduction in international student enrolments, the

slowest post-COVID recovery in international students⁸, and are among the least able public institutions to absorb any further reductions in international student revenue⁹.

RUN argues that any reduction in its international enrolments/revenue would ultimately result in the loss of regional university jobs and local economic benefits, the closure of regional campuses, and a reduction in tertiary services and opportunities available to regional Australians.

This would not only detriment regional communities and the tertiary opportunities they rely upon, but it would also severely compromise the Australian Government’s equity objectives arising from the Australian Universities Accord.

INTERNATIONAL EDUCATION FAST FACTS

- RUN universities enrol just 4 per cent of all international students studying at Australian universities (including those studying on RUN CBD campuses).
- International students comprise just 14 per cent of all RUN enrolments, compared to a national average (excluding RUN) of 28 per cent of total enrolments.
- In terms of total income, RUN universities derive just 12 per cent of their revenue from international cohorts, while the national average (excluding RUN) is 25 per cent.
- Between 2019 to 2022, RUN universities saw a 61 per cent reduction in international student revenue linked to the pandemic, compared to the sector average of just a 16 per cent reduction during the same period.

OVERVIEW

This submission outlines how legislative amendments should be designed with regional nuance to ensure regional Australians do not regress any further in their access to equitable education and research opportunities in their own communities. RUN ultimately seeks a visa/migration system that demonstrates greater transparency and repeatability, designed in such a way that avoids excessive concentrations of international students by provider, acknowledging the historical legacy this has had on growing resource asymmetries between Australia's public universities and their subsequent capabilities in meeting their social missions.

Given the likelihood of these legislative changes to cause significant disruption to such a large and important export market, and the high-risk potential for unintended consequences, RUN advocates for the establishment of Guiding Principles to inform legislative change and broader policy implementation. RUN proposes the following Guiding Principles for consideration:

- **Transparency:** recognising that a robust sector whose providers respond promptly to opportunity and risk must have transparent access to more timely and relevant data from (for instance) the Department of Home Affairs including far greater clarity and certainty surrounding risk rating implementation.
- **Accountability:** of decision making as it applies to market interventions and the exercising of (new) legislated powers that seek to allocate places by course, location, provider. To ensure accountability, RUN believes these powers (as they apply to Table A providers) should transfer in the future to an apolitical public entity.
- **Integrity:** acknowledging the importance of integrity to the international student market and recognising that higher education providers are a well-regulated, low-risk group who are consistent, good faith actors in implementing and complying with Government policy and legislation.
- **Sustainability:** including a recognition of the challenges in recruiting international students in large quantities to regional campuses, and the reality that many regional providers rely upon the international student revenue derived from their metropolitan CBD campuses to meet their social missions while ensuring the ongoing viability of their regional teaching, learning, research, staffing, student support and community engagement obligations.
- **Timing:** the importance of phased, highly nuanced policy implementation that avoids cliff face impacts of sudden interruptions to revenue streams before new revenue streams or funding models are realised.

This submission provides a regionally-nuanced contribution to the formation of a sustainable, high-integrity and low-risk international student sector, with specific feedback provided against the proposed amendments to the Act.

RUN supports the submission from Universities Australia.

RECOMMENDATIONS

Bill Amendment	RUN Recommends
Part 1 – Education agents and commissions	<p>6BA Meaning of education agent RUN recommends that an ‘education agent’ be more carefully and explicitly defined under ‘6BA Meaning of education agent’.</p> <p>6BB Meaning of education agent commission RUN recommends that 6BB removes the term ‘non-monetary’ as a recognised commission. RUN recommends greater clarification with 6BB; it does not clearly stipulate if the restriction on onshore agent commissions relates to students transferring during their studies, wishing to continue their studies after graduating from their more recent qualification (i.e. Bachelor to Master or Diploma to Bachelor).</p>
Part 5 – Automatic cancellation of registration	<p>92A, (1)(a) RUN recommends that the regional campuses of regional universities be exempt, alongside approved school providers, from automatic cancellation (if no course is provided in a 12-month period).</p>
Part 7 – Enrolment limits	<p>RUN recommends that, as/when it involves Table A providers (as established under the Higher Education Support Act 2003 (HESA)), the discretionary Ministerial powers to impose enrolment limits should be accompanied by a sunset clause that eventually sees the transfer of powers to the Australian Tertiary Education Commission (ATEC) once it becomes fully operational from 2026 onwards.</p> <p>(26B) Courses exempt from total enrolment limit (4 & 5) RUN recommends that courses that are regionally-delivered by regionally-headquartered universities are explicitly exempted from total enrolment limits.</p> <p>(26B) Consultation (11) RUN recommends a change to the wording of Ministerial consultation obligations from ‘may’ to ‘must’.</p> <p>26E Specified providers (5)(a) RUN recommends that Table A providers, as established under HESA, to be exempt from course enrolment limits.</p> <p>26E Consultation (10) RUN recommends a change to the wording of Ministerial consultation obligations from ‘may’ to ‘must’, when/as it applies to Table A providers (as established under HESA).</p> <p>Division 1AA (96) Automatic suspension for all courses for the year RUN recommends further clarification be provided as to how Transnational Education students who articulate for one or two years onshore, will be dealt with in relation to the enrolment limit.</p>
Part 8 – Automatic cancellation of specified courses	<p>96B Minister may make instrument specifying courses As/when it involves Table A providers (as established under HESA), the discretionary Ministerial powers to suspend/cancel courses should be accompanied by a sunset clause that eventually sees the transfer of powers to the ATEC once it becomes fully operational from 2026 onwards.</p> <p>(1)(b) & (c) – RUN advocates that that Table A providers (as established under HESA) be exempt from (b) and (c).</p> <p>(6) As/when it involves a Table A provider (as established under HESA) an additional consultation should occur with the provider prior to the issuing of the notice.</p>

CONTEXT

Value of Higher Education providers in Australia's international education sector
Australia's public universities and public TAFE's have proven to be low-risk, highly successful participants in Australia's international education sector, and are widely considered to be good faith actors in implementing and complying with Government policy and legislation. The interests and integrity of the higher education sector are well served by its regulator, Tertiary Education Quality and Standards Agency (TEQSA), which employs principles of proportionality and risk-based approaches when managing issues of concern as they arise. Australia's public universities are a small group of just 37 providers, and so from a risk and integrity oversight perspective they are more effectively and efficiently managed/regulated. As a result, Australia's universities typically demonstrate consistently high levels of integrity and low levels of risk through their engagement with the international student sector.

RUN believes that any reallocation of Australia's total international students should favour public providers.

Urban scale, and regional capacity to respond to major changes

International students play an incredibly important, yet disproportionately limited, role in meeting the social missions of regional institutions. RUN celebrates the invaluable contributions that international students/graduates make to the social, cultural and economic prosperity of regional communities. However, international students are also an indispensable revenue stream that supports the viability of many regional universities who operate in the challenging environment of thin regional tertiary markets. The geographically-defined social missions of regional universities mean they simply cannot generate the same operational scale as large metropolitan universities operating in densely populated urban markets.

Attracting large cohorts of international students to regional centres is challenging

and so consideration must be given to how closely the metropolitan CBD campuses of regional universities are linked to the ongoing viability of tertiary education, research, and student support in regional Australia, where tertiary participation and attainment is persistently lower¹⁰. RUN would urge that the CBD campuses of regional institutions should be maintained and allowed returned growth in international student numbers to at least pre-pandemic (2019) levels, without encumbrances such as the construction of student accommodation. Furthermore, consideration should be given to those regionally-run metropolitan campuses that have become operational since 2019, via investments made in good-faith by regional institutions seeking to improve the viability of their regional service obligations.

RUN believes that there should be uncapped growth of international students at regional campuses, and that the CBD campuses of regional institutions should be maintained and allow international student numbers to return to at least pre-pandemic (2019) levels.

Additional challenges of regional placement

Regional Australia is home to world-class universities who have strong track records in delivering high-quality, supportive tertiary education opportunities to international students. Australia's regions can, and should, host a greater share of Australia's international student cohorts. RUN believes more can be done to promote regional university rankings at a field of study level, and to raise the profile of regional Australia as a desirable destination for international students, promoting the excellence of regional tertiary teaching and research opportunities. RUN acknowledges the role played by the Department of Education's Education and Research Offshore Counsellor Network in promoting the offshore profile of regional university research capabilities and facilitating international collaboration opportunities, and RUN advocates for greater Commonwealth resourcing of the Research Offshore Counsellor Network.

CONTEXT

RUN has sought for no capped impediments (by location, provider, or course, or via accommodation encumbrances) for international students enrolling at regional universities. However, this must be supported by a visa regime that positively discriminates towards regional study/settlement, to assist the growth of international students at regional campuses.

RUN acknowledges the additional challenges that would be involved in realising multiplied growth in the placement of international students at regional campuses – specifically, those international students who hold a genuine interests and motivation for regional study. Regional study amongst international cohorts often comes with additional, and unique, challenges. The (generally) greater distances between regional campuses and places of employment, housing and social amenities, alongside the limitations of regional public transport and a greater reliance on private vehicle ownership, are a major obstacle for many international cohorts, for instance. Many international students rely on their diaspora communities – primarily found in large metropolitan locations – for support, employment opportunities and housing. It is the reality that regional study is an unviable option for many international students and equally, it is the reality that many regional institutions rely upon metropolitan CBD campuses to engage with international cohorts.

There must be a more robust and nuanced examination of the rationale behind policy settings that seek to ‘redirect’ international students – who would otherwise strongly preference metropolitan study – to regional study locations instead. There is a risk that, should international students receive a place allocation but only in a location (and/or a course) they do not preference, the outcome would be either:

- the student forgoes Australia for a competitor destination, or
- it may result in attracting lower quality/less-genuine student markets that would benefit neither the regions, nor the interests of the student themselves.

Both outcomes carry reputational, integrity, and financial risk. While regional Australia is eager to host a greater share of Australia’s international student sector, it must do so by attracting genuine students who have an authentic desire (and ability) to undertake their study journey in a regional location, as these are the students most likely to succeed and contribute to sectoral integrity and reputation.

RUN would highlight the limitations of a ‘trickle down’ approach to international student placement that seeks to cap metropolitan offerings (by course or location) in the hope that a subsequent overflow of students is realised by regional campuses.

There must be an acknowledgement that freedom of student choice (in provider, course and/or location) is linked to broader issues of sector integrity and quality.

RUN believes that there should be uncapped growth of international students at regional campuses which is supported by a student visa regime that positively discriminates towards regional study/settlement.

CASE STUDY: GEOGRAPHIC PREFERENCES

CQUniversity’s Master of Laboratory Medicine met its student quota at its Melbourne CBD campus in Term 1 2024, with international students on a waitlist for this location. Meanwhile, the (regional) Rockhampton campus quota for this same course remained unfilled.

CONTEXT

Capped allocation via course

RUN acknowledges the national interest in aligning Australia's migration/visa settings more closely to Australia's skills needs. However, RUN views the legislative intention of a Minister setting international student caps at a course level as a largely ineffectual response to Australia's skills needs that will likely lead to unintended consequences. The overwhelming majority of international students leave Australia shortly after graduation, taking the skills and qualifications they have gained to international labour markets. Indeed, the Government's newly released Migration Strategy indicated that most international students are expected to leave Australia after they complete their studies. RUN questions the value of policy/legislation that seeks to dictate the study choices (at a course level) to the majority share of international students who will never apply their qualifications to Australian workforces. The minority of international students who choose Australia as their study destination, who also seek a realistic chance of migration success, would already be aligning their study to not only personal interest but to those skills and occupations that favour successful migration outcomes.

Course caps, atop of caps that may also apply at a provider and a location, introduces a level of complexity that may likely result in unintentional breaches and subsequent sanctions. This complexity is compounded for regional universities who operate courses across multiple campus locations. Furthermore, the highly variable nature of visa processing and student decision-making regarding accepting, enrolling, or withdrawing will add significant challenges to a university in meeting its institutional enrolment caps precisely, which will be made considerably more difficult by caps existing at the course and campus level as well. There is a concern among RUN universities that they may cautiously under-enrol – leading to diminished opportunity to the universities and communities of regional Australia alike – or alternatively RUN universities may inadvertently over-enrol, attracting penalties

or having to cancel enrolments, both coming at financial and reputational cost.

The recent Jobs Ready Graduates policy demonstrated the limited influence that either punitive or incentivised policy measures have on student choice. Applying a similar ideology towards international students may have the effect of either compromising the likelihood of a provider being able to meet its capped allocation through a limiting of domestic product choice in a rich and diverse global student market, or it may have the effect of attracting non-genuine students into academic streams unaligned to their personal interests or career aspirations. Again, a student's freedom of choice must be at the centre of our education system, recognising that students are best placed to determine those offerings that best reflects their interests, talents, and career aspirations.

If course-level caps are to be applied, they should be transparent and decided well in advance of the start of the next academic year. The Government's approach to determining course caps should account for the different strengths and social missions of individual universities, and where skills needs are considered, this should be examined at a regional level, not just a national level. An aggregated national approach to course level caps/skills need will inevitably resemble metropolitan circumstance, which would be an ineffectual response to the highly nuanced social and workforce dynamics faced by regional employers, their universities, and their students.

RUN believes there should be no capped impediment, by location, provider, or course - for international students enrolling at regional universities.

UNINTENDED CONSEQUENCES: REGIONAL PLACEMENTS

RUN universities welcome international students who are prepared to study, live, and work in regional areas, particularly those seeking careers in areas of high skilled shortages such as education and health.

RUN would caution however, against a caps-conditional policy that seeks to redirect enrolments into these fields above levels that international students would otherwise fill naturally through their own independent choice.

The professional and clinical placement requirements of health and education courses are high, and in the regions, these placements are difficult to source, expensive to manage, and are often located hundreds of kilometres from the regional campus with students requiring high levels of support to complete the weeks-long placement commitments.

RUN questions the national interest in artificially inflating pressure upon the scarcity of regional placement opportunities to cater for large numbers of international students who will inevitably leave Australia upon graduation.

It is also the case that some fields of study have student intake quotas limited by industry accreditation bodies (such as the Australian Nursing and Midwifery Accreditation Council) which would seemingly undermine the policy objectives of directing international enrolments towards certain courses.

International students and accommodation dynamics

RUN notes the Government's intentions to signal that it is addressing the growing pressure on Australia's housing stock by pursuing both a reduction in, and a wider geographic redistribution of, Australia's international student cohorts. Notwithstanding the tenuous link between the two issues of international students and housing supply, RUN also notes the Government's intention to link any further growth in international student enrolments – above negotiated institutional caps – to the construction of new student accommodation. RUN would not support the linking of above-cap growth to new student accommodation construction for regional campuses (nor for the metropolitan CBD campuses of regional institutions as they seek a return to pre-pandemic (2019) international student numbers).

The current pressures on accommodation availability and affordability in the CBD areas of Australia's largest cities are not uniformly replicated across all parts of Australia, including its regions. The majority of regional communities simply do not host the concentrations of international students as seen in the CBD suburbs of our largest capital cities. The new student accommodation requirements of the proposed managed growth policy, if applied to regional higher education providers, would also place disproportionate burdens upon regional universities and regional communities.

Firstly, regional universities have less financial capacity and/or borrowing capacity to take on major capital expenditure projects, compared to metropolitan universities who can leverage robust balance sheets derived from scaled operations in dense urban markets.

Secondly, the costs of construction, maintenance, equipment, and supply chains are higher in regional Australia. For instance, the most recent Rawlinsons Construction Guide recorded that, compared to the nearest capital city, the cost of construction on projects \$1.5m and above were 10 per cent higher

CONTEXT

in Armidale; 8 per cent higher in Dubbo; and 17 per cent higher in Rockhampton, Mackay, or Gladstone¹¹. These inflated regional construction costs represent a disproportionate cost burden for regional universities.

Thirdly, there are higher and more persistent skills shortages in regional economies, including amongst Technicians and Trades Workers, according to Jobs and Skills Australia¹². These factors make it more difficult for regional universities to respond to international growth opportunities as they arise.

Furthermore, the accommodation needs and study profiles of international students tend to exhibit differences between metropolitan and regional settings. For instance, RUN universities tend to host higher proportions of post-graduate international students who undertake and subsequently complete their qualifications at a later age than those attending metropolitan universities. International post-graduate students studying at regional locations are often accompanied by partners and children, meaning they are more likely to seek private market accommodation over purpose-built student accommodation.

Additionally, regional campuses are not always located near the services, amenities, and places of employment that international students require, and these students will often preference accommodation options that are off-campus, and more suited to their specific needs and circumstances. These factors diminish the case for new purpose-built student accommodation in regional areas.

Finally, the timing impacts of the multijurisdictional process of planning/building approvals required of major construction projects such as student accommodation – a multi-year process in some instances – would also be a significant barrier to responding quickly to growth opportunities in international student market.

RUN believes that regional universities be excluded from the proposed student accommodation requirements of above-cap growth in international student numbers.

The timing of changes

RUN would urge an acknowledgement of the additional challenges that smaller and regional universities would face during the transition to the new managed growth policy landscape, recognising that any major disruption to the sector is typically exacerbated by factors relating to diseconomies of scale. The full pipelined benefits of a more geographically equitable distribution of international student cohorts will invariably take years for regional Australia and its universities to realise. However, the financial impacts of a January 2025 reduction in international student admissions will be immediate and significant. The potential for unintended consequences, including the loss of regional university jobs, the closure of regional campuses, and/or a reduction in tertiary services and opportunities available to regional Australians would be unacceptably high. This would have a corrosive effect on regional Australia's capacity to meet the equity and attainment targets set out by The Australian Universities Accord.

RUN acknowledges that the establishment of the ATEC and the subsequent implementation of a needs-based funding model may relieve some of the funding pressures facing regional universities, however this is not anticipated until 2026, and would be unlikely to meet the funding shortfall experienced by any major reduction in the CBD campus revenue of regional institutions in any case. As such, RUN rejects the view that the introduction of needs-based funding may act as a trade-off for international student enrolments. The social missions that require regional universities to drive highly applied, place-based research, for instance, would be left exposed by any such funding shortfall, alongside many other important social functions that would remain unfunded by a needs-based funding model. RUN therefore urges a policy implementation approach that reconciles

CONTEXT

the impending changes in international and domestic funding, such that the impacts occur at the same time to at least allow some degree of offset. It is important to plan policy implementation that avoids cliff face impacts of sudden interruptions to revenue streams before new revenue streams or funding models are realised. Features of the next wave of international education reform should be delayed until 2026 to allow a more informed approach to policy design and implementation, ensuring the Government has time to properly consult with the sector to get these significant changes to Australia's international education sector right.

RUN believes that 2025 should be a transition year for the sector to adjust to the implementation of managed growth policy in 2026.

Integrity, accountability and transparency
RUN believes that Australia's global reputation as a preferred destination for cohorts of international students is underpinned by the integrity, accountability, and transparency felt by all participants in the sector – consumers, providers, and regulators. At the heart of this global reputation must be a preservation of a student's freedom of choice, in study location, course and/or provider. RUN holds the firm understanding that students are much better placed than policy makers to determine the opportunities that best reflect their own highly intrinsic interests, talents, and career aspirations.

RUN recognises the unprecedented nature of the proposed legislated powers, granted to the responsible Minister, to set discretionary limits on international students in Australia, including limits by provider, location, or course. RUN agrees with Universities Australia that the Bill goes beyond what would be considered appropriate in any other sector, and that it will leave universities vulnerable to the Minister's, or future Minister's, extraordinary discretionary powers. RUN firmly believes that – as/when these powers may be applied to Table A providers (as defined by HESA) – these powers should not reside with a Minister, given the

UNINTENDED CONSEQUENCES: RUSHED IMPLEMENTATION

International students intending to commence study at RUN universities in 2025 are already receiving offers. The highly variable nature of student decision-making regarding accepting, enrolling, or withdrawing adds significant challenges to the institution in meeting enrolment caps precisely.

Existing students may not graduate on time which creates an unexpected backlog of continuing students, and visa approval rates could be better than expected meaning unexpected volume in new commencements. There is a risk that many providers will consequently under-enrol – leading to lost opportunities for a university and the community it serves – or alternatively the provider may inadvertently over-enrol, attracting significant penalties or having to cancel enrolments, both coming at financial and reputational cost.

As a January 2025 implementation approaches, RUN understands that individual university cap negotiations will soon commence, with finalisation expected by September 2024. RUN holds concerns that universities will be expected to undertake highly-consequential cap negotiations in good faith without knowing the finalised legislative requirements, the ultimate form of the Commonwealth's International Education and Skills Strategic Framework, or any of the guidelines/regulations/associated policy that result (e.g., course caps, accommodation requirements, appeal mechanisms, eventual funding arrangements under a managed growth model etc...).



risk of politicisation or ideological overreach in discretionary application. If these powers are to be held at all, RUN believes they should be in the hands of a strictly apolitical entity. The (soon to be established) ATEC, for instance, will be responsible for the managed growth of domestic students within higher education. Given the importance of the international student sector to Australia's public universities, it may make sense for the powers to manage international student growth to reside, in time, with the ATEC as well.

RUN believes the design of a future higher education system needs to be based on transparency of visa processing and provider expectation and repeatability in relation to managing the risk and planning of the international education sector. This ought to be done in such a way that does not result in excessive international student concentrations at any university provider. RUN believes that the design of a robust higher education system ought to be informed by the undertaking of a highly nuanced and evidence-based approach to the process determining the overall quantum of international students in Australia.

RUN is supportive of recent reforms that realise a six month no transfer period as a means to disrupt the unethical practice of student poaching, however RUN would urge a further extension to allow a 12 month no downstream transfer period, as a heightened integrity preservation measure. RUN also calls for a move away from provider risk ratings as the basis for student visas, and towards a more holistic assessment of student suitability instead.

AMENDMENTS

Part 1 — Education agents and commissions

Division 1 — Amendments

6BA Meaning of education agent

RUN argues that the proposed parameters of what/who constitutes an “agent” under ‘6BA Meaning of education agent’ is far too broad, and potentially captures too many participants in the sector, causing confusion and blurring the lines between genuine agents and those who simply advocate for the sector (such as an employee of a university, state agencies, or international alumnus speaking at a recruitment event). RUN is concerned that the proposed definition of an “agent” may capture staff at onshore institutions where articulation agreements are in place. These staff may be providing information, advice or assistance and would be dealing with overseas students. There may also be the potential for reputable organisations (such as Study NSW, for instance) to be recognised as an organisation that provides information to overseas students, potentially meaning that member subscriptions would be seen as ‘commission’ under the proposed “agent” definition in 6BB.

The risks associated with the insufficient definition of an agent include: unnecessarily complex and detailed reporting requirements; confusing information being provided to prospective students; unintentional breaches; and the potential disclosure of commercial-in-confidence information that may invoke breaches of contract with international partners.

RUN recommends that an ‘education agent’ be more carefully and explicitly defined under ‘6BA Meaning of education agent’ to exclude those parties who derive no consideration or benefits for their advocacy of Australia’s international education sector.

RUN recommends that 6BB removes the term ‘non-monetary’ as a recognised commission. A commission in this case should ostensibly relate to financial remuneration. As an example, many universities regularly provide education agents with small gifts on occasions such as Chinese New Year, Diwali or Christmas.

RUN sees the need for greater clarification with 6BB; it does not clearly stipulate if the restriction on onshore agent commissions relates to students transferring during their studies, wishing to continue their studies after graduating from their more recent qualification (i.e. Bachelor to Master or Diploma to Bachelor).

RUN has additional concerns that the Provider Registration and International Student Management System (PRISMS) is inadequate for the capture and reporting of the information required by the changes outlined in this Bill. RUN has significant concerns about the costs and time required to ensure that PRISMS will be fit for purpose of the legislation.

Part 2 — Giving information to registered providers

RUN support powers that increase the transparency of agents to education providers, noting our broader concerns about how this will be implemented in PRISMS.

Part 3 — Management of provider applications

RUN have no comments or amendments relating to Part 3.

Part 4 — Registration requirements

RUN is supportive that Table A providers are excluded from the requirement that a provider must provide one or more courses for consecutive study periods totalling at least two years at a location or locations to students in Australia, other than overseas students, to be registered under that Act, as per Item 37.

Part 5 — Automatic cancellation of registration

92A Automatic cancellation if provider does not provide a course in a 12 month period

(1)(a) – RUN advocates that the regional campuses of regional universities be exempt, alongside approved school providers, from automatic cancellation (if no course is provided in a 12-month period).

AMENDMENTS

Given the inconsistent and unpredictable nature of fluctuating enrolment patterns in thin regional markets, and recognising the low-risk, high-quality characteristics of public tertiary providers, RUN argues that exempting regional universities from this automatic cancellation, is not only good public policy, but also an acknowledgement of the changeable circumstances in which regional universities operate.

Part 6 — Investigation of offences

RUN have no comments or amendments relating to Part 6.

Part 7 — Enrolment limits

RUN holds concerns with a Minister holding such unprecedented discretionary powers to set limits on international students in Australia, including limits by provider, location, or course. RUN firmly believes that – as/when these powers may be applied to Table A providers (as defined by HESA) – these powers should not reside with a Minister, given the risk of future politicisation or overreach. If these powers are to be held at all, RUN believes they should be in the hands of a strictly apolitical entity.

As/when it involves Table A providers (as established under HESA), the discretionary Ministerial powers to impose enrolment limits should be accompanied by a sunset clause that eventually sees the transfer of powers to the ATEC once it becomes fully operational from 2026 onwards.

Subdivision B – Total enrolment limits

26B Minister may impose total enrolment limits by legislative instrument

Courses exempt from total enrolment limit

- 26B(4&5) – RUN advocates that the proposed legislative amendments should ensure that courses that are regionally-delivered by regionally-headquartered universities are explicitly exempted from total enrolment limits.

Consultation

- 26B(11) – RUN seeks to change to the

wording of Ministerial consultation obligations from ‘may’ to ‘must’.

Subdivision C—Course enrolment limits

26E Minister may impose course enrolment limits by legislative instrument

Specified providers

- (5) (a) the kind of provider; RUN advocates for Table A providers, as established under HESA, to be exempt from course enrolment limits. This reflects the low-risk, high-quality nature of Australia’s university sector, the fundamental importance of student choice in the integrity and reputation of the university sector, and the fact that the majority of international students leave Australia after graduation.

Consultation

- (10) – RUN seeks to change to the wording of Ministerial consultation obligations from ‘may’ to ‘must’, when/ as it applies to Table A providers (as established under HESA).

Division 1AA – Automatic period of suspension for exceeding limits on enrolment

96 Automatic period of suspension for exceeding total enrolment

RUN holds concern that there appears to be limited provisions for appeal of suspension-related decisions, especially in relation to breaches of the cap(s), which introduces fundamental questions of accountability and integrity in the process. There must be clear and fair mechanisms for appeal of Ministerial and Departmental decisions, including caps and actions in relation to breaches of the Act or the International Education and Skills Strategic Framework.

RUN holds concerns that the multiple layers of caps proposed (via course, provider and/or location) introduces a level of complexity that creates a high risk of unintended breaches and subsequent sanctions.

AMENDMENTS

Automatic suspension for all courses for the year

- Further clarification must be provided as to how Transnational Education students who articulate for one or two years onshore, will be dealt with in relation to the enrolment limit.

Part 8 — Automatic cancellation of specified courses

Division 1AB—Automatic suspension and cancellation of courses specified by the Minister.

RUN holds general concerns about Ministerial discretion over course suspensions for those offerings deemed outside of 'the public interest', and the potential for political or ideological overstep as/when it involves Table A providers (as established under HESA). RUN would also urge that, if/when Ministerial discretion towards suspension is applied to courses deemed of 'limited value' to Australia's skills needs, that a more nuanced distinction between metropolitan and regional skills needs and workforce dynamics are applied, as an aggregated national approach to skills need will inevitably resemble metropolitan circumstance. In any case, RUN would argue that Table A providers (as established under HESA) would be exempt from the instrument specifying courses, given the low-risk, high-quality nature of Australia's university sector and the high levels of historic alignment between universities and appropriate workforce development. Furthermore, RUN questions the need for course suspension/cancellation for

offerings deemed outside of Australia's skills needs, given that the overwhelming majority of international students leave Australia shortly after graduation, taking the skills and qualifications they have gained to international labour markets. The minority of international students who choose Australia as their study destination, who also seek a realistic chance of migration success, would already be aligning their study to not only personal interest but to those skills and occupations that favour successful migration outcomes.

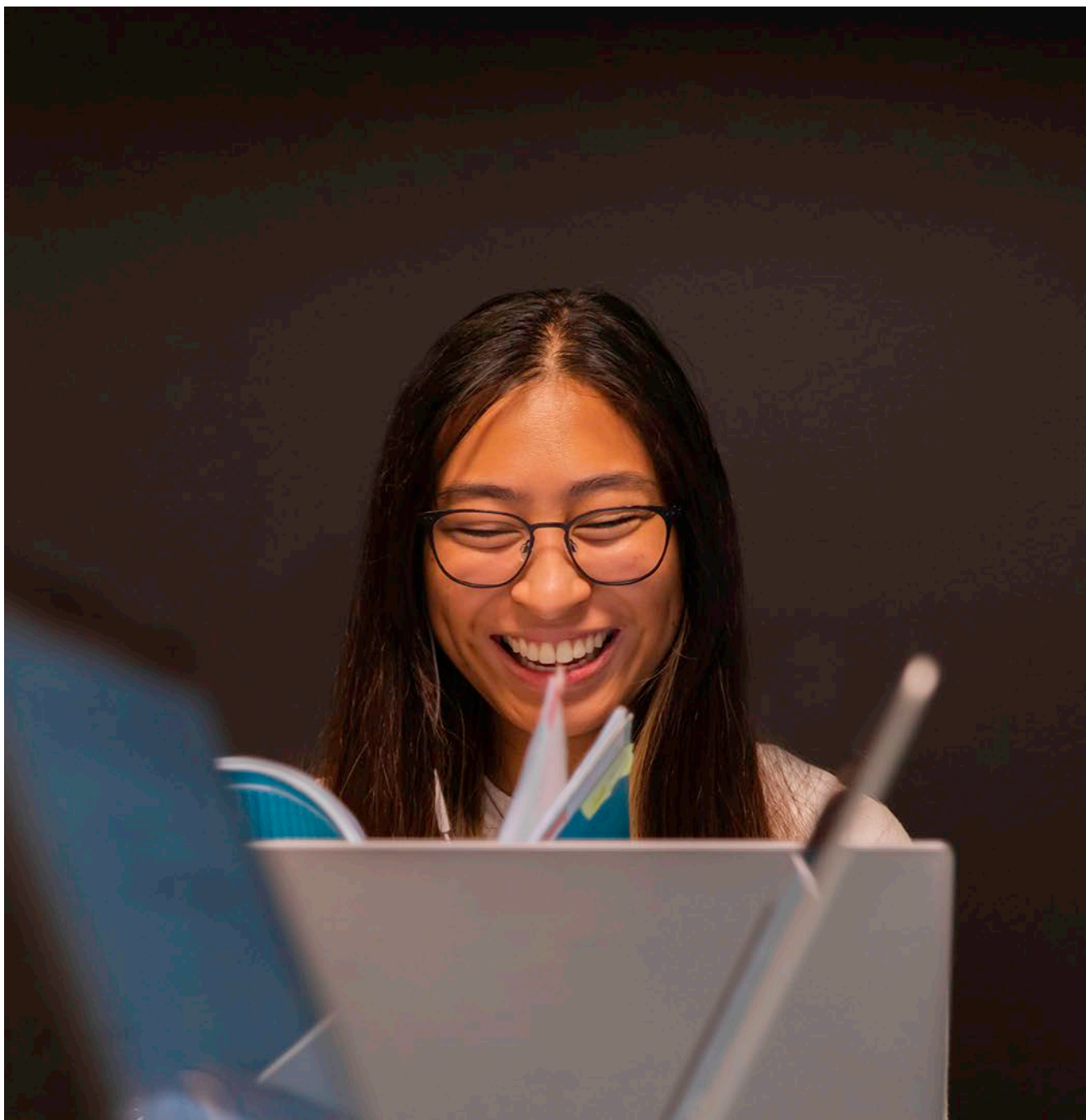
96B Minister may make instrument specifying courses

- •(1)(b) & (c) – RUN advocates that that Table A providers (as established under HESA) be exempt from (b) and (c), given the low-risk, high-quality nature of Australia's university sector, and the risk of politicised overreach in legislative implementation.
- •(6) As/when it involves a Table A provider (as established under HESA) an additional consultation should occur with the provider prior to the issuing of the notice.
- •As/when it involves Table A providers (as established under HESA), the discretionary Ministerial powers to suspend/cancel courses should be accompanied by a sunset clause that eventually sees the transfer of powers to the ATEC once it becomes fully operational from 2026 onwards.



REFERENCES

- 1 Australian Bureau of Statistics. (2024). 5302.0 Balance of Payments and International Investment Position, Australia - Table 8. Services Credits. Accessed at <https://www.abs.gov.au/statistics/economy/international-trade/balance-payments-and-international-investment-position-australia/latest-release#data-downloads> on 28 June 2024.
- 2 National Australia Bank. (2024). Markets Research , Macro-Thematic. Accessed at: <https://www.nab.com.au/content/dam/nab-email-composer/nabmarketsresearch/economics/pdf/2024-03-07%20thematic%20-%20Students.pdf> on 28 June 2024.
- 3 Ibid.
- 4 Universities Australia. (2024). International. Accessed at: <https://universitiesaustralia.edu.au/policy-submissions/international/> on 28 June 2024.
- 5 Department of Education. (2024). International student enrolment and commencement data by ABS SA4. Accessed at: <https://www.education.gov.au/international-education-data-and-research/international-student-enrolment-and-commencement-dataabs-sa4> on 22 May 2024.
- 6 Department of Education. (2024). Selected Higher Education Statistics – 2022 Student data. Accessed at: <https://www.education.gov.au/higher-education-statistics/student-data/select-ed-higher-education-statistics-2022-student-data> on 28 June 2024
- 7 Department of Education. (2024). Higher Education Finance Publication. Accessed at <https://www.education.gov.au/higher-education-publications/finance-publication> on 28 June 2024.
- 8 Department of Education. (2024). Selected Higher Education Statistics – 2022 Student data. Accessed at: <https://www.education.gov.au/higher-education-statistics/student-data/select-ed-higher-education-statistics-2022-student-data> on 28 June 2024
- 9 Department of Education. (2024). Higher Education Finance Publication. Accessed at <https://www.education.gov.au/higher-education-publications/finance-publication> on 28 June 2024.
- 10 Australian Bureau of Statistics. (2024). Education and Work, Table 18 Australia, May 2023. Accessed at <https://www.abs.gov.au/statistics/people/education/education-and-work-australia/latest-release> on 27 June 2024.
- 11 Rawlinsons Construction Cost Guide. (2024). Edition 32. Accessed at <https://www.rawl-house.com.au/publications/2024-construction-cost-guide> on 27 June 2024.
- 12 Jobs and Skills Australia. (2023). Towards a National Jobs and Skills Roadmap – Summary, Current Skills Shortages. Accessed at <https://www.jobsandskills.gov.au/publications/towards-national-jobs-and-skills-roadmap-summary/current-skills-shortages> on 27 June 2024



**For further information please contact
RUN on info@run.edu.au**

