



# Ban on the payment of agent commissions for onshore transfers

There has been a change to the National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code) regarding the payment of education agent commissions.

This fact sheet is intended as a plain language guide to the change and should not be relied upon as legal advice. Where there is doubt, please refer to the *Education Services for Overseas Students Act 2000* ([ESOS Act](#)) and the [National Code](#).

## What is changing?

Education providers are now prohibited from paying or giving an education agent a commission for the recruitment of an overseas student who is transferring from another provider. Once a student has commenced their study onshore with a provider, a new provider cannot pay or give an agent a commission for that student's recruitment. Previously, there were no restrictions on when a provider can give an education agent a commission.

To give providers time to adjust to the change, the ban will not apply where the relevant overseas student has been accepted for enrolment by a provider on or before 31 March 2026. The student does not need to have commenced study on or before 31 March 2026 for this exception to apply – only acceptance for enrolment is required, i.e. the student becomes an 'accepted student' as defined in the ESOS Act. This allows time for providers to adjust their business practices and honour existing contracts with education agents that involve future instalments of commission payments for previously recruited students.

## Why the change?

This change removes the incentive for unscrupulous education agents to facilitate unnecessary or non-genuine transfers. This change will support sector integrity and ensure that agents and providers are working in the best interests of their students.

## Frequently asked questions

### What is a transfer?

A transfer is when an overseas student moves from one provider to another provider without first completing their course.

For the purposes of the onshore transfer commission ban, a new provider is not allowed to pay or give an education agent a commission in relation to the recruitment of an overseas student who has

already commenced their studies onshore. This ban applies even where a student has commenced studies and their enrolment is cancelled, they withdraw from their course, or they are in between courses in a package, as in these cases they have previously commenced a course with a provider.

Movement to further study does not constitute a transfer. This means that for students enrolling with a new provider for a course that will commence after they have completed their principal course, the new provider can pay an agent a commission for their recruitment.

***Example of movement to further study***

*A student enrolls in ELICOS at Provider A and a Bachelor of Laws at Provider B and is granted a student visa for this package of courses. In the final year of the Bachelor of Laws, the student decides to pursue further study, and seeks the help of an education agent to enrol in a Master of Laws course at Provider C after completion of the Bachelor of Laws.*

*Provider C is permitted to pay a commission to the agent, because the course will start after completion of the student's principal course.*

Progression through a set package of courses for which a student's visa has been granted also does not constitute a transfer. This means that providers can pay an agent a commission for the student's recruitment in relation to all courses in the package of courses provided by the providers listed on the Confirmations of Enrolment (CoEs) for which the student's visa was granted, but cannot pay a commission in relation to any courses not listed on the CoE.

For example, where a student was issued a student visa on the basis of CoEs for an ELICOS course at one provider followed by a higher education course at another provider, both providers can pay commissions for the student's recruitment. However, where a student transfers to a new provider which is not the provider listed on the CoE the student visa was granted for, no commission can be paid for this recruitment, even where it may be a course of the same name.

***Example of progression through a packaged course:*** *A student is issued a student visa on the basis of two CoEs, an ELICOS course at Provider A followed by a Bachelor of Laws at Provider B.*

*Six months into the student's Bachelor of Laws at Provider B, the student transfers to the same course, a Bachelor of Laws, at Provider C. Provider C cannot pay the student's agent a commission for this recruitment, as this is not the specified course at the specified provider in the student's package of courses for which their visa was granted.*

## What counts as a 'commission'?

The definition of 'education agent commission' in the National Code is the same definition of 'education agent commission' in section 6BB of the ESOS Act.

The onshore transfer commission ban applies to any consideration or benefit, whether monetary or non-monetary, that:

- a. is or will be given, by, or on behalf of, a provider to an education agent, or an associate of the education agent; and



- b. is in connection with:
- i. the recruitment of an overseas student or an intending overseas student; or
  - ii. providing information, advice or assistance to overseas students, or intending overseas students, in relation to enrolment at a provider, or otherwise dealing with overseas students, or intending overseas students in relation to a provider.

For example, an education agent commission could be a monetary or non-monetary commission, service charges, bonuses, performance payments, gifts, discounted or free services, or other rewards and incentives.

The definition of 'education agent' covers individuals and entities engaging in a range of recruitment activities (as listed in section 6BA of the ESOS Act). While permanent full- or part-time employees of a provider are excluded, individuals or entities on casual or fixed-term contracts that are engaging in education agent activities would be education agents. Education agent commissions are as defined above, even if paid as part of a non-permanent employee's remuneration.

For more information on the 'education agent' definition, please see the [education agents and commissions fact sheet](#).

## Can students still transfer between providers?

Yes, as outlined in Standard 7 of the National Code, overseas students are still able to transfer between providers if they wish, if they have completed the first six months of their principal course (or the first six months of their first school course if they are a school student). However, education providers are prohibited from paying or giving an education agent a commission for the recruitment of an overseas student who is transferring from another provider.

Overseas students may transfer between providers before the end of the transfer restriction period in certain exceptional circumstances, where:

- the student's provider or course ceases to be registered,
- a sanction imposed on the student's provider by an ESOS agency prevents the student from continuing their course at that provider,
- the student's provider has agreed to the student's release and recorded the date of effect and reason for release in PRISMS, or
- a government sponsor of the student considers the change to be in the student's best interests and has provided written support for the change.

## Can students still access assistance from education agents?

Yes. If an overseas student would like to transfer to a new provider, they can access assistance from, or otherwise engage the services of, an education agent (for example, by paying them a direct fee, or seeking unpaid assistance). However, if they seek the help of an agent to transfer, that agent will not be able to receive any commission (as defined above) from the receiving provider for doing so.

## Does the ban apply to existing contracts providers may have with agents?

The ban will only apply where the relevant transferring overseas student is accepted for enrolment at their new provider after **31 March 2026**.



This means that if a provider has an existing contract with an agent in relation to the recruitment of a student who has already transferred (i.e. is accepted for enrolment) on or before **31 March 2026** and that existing contract includes future instalments of the commissions to be paid or given, these can be paid or given in line with that contract.

Where a student may have been attempting to transfer but is not yet an accepted student of the receiving provider by **31 March 2026**, the ban applies and a commission cannot be paid or given to their agent.

## At what point is a student 'accepted' for enrolment?

Under the ESOS Act, an 'accepted student' is a student (either within or outside of Australia) who:

- is accepted for enrolment, or enrolled, in a course provided by the provider; and
- who is, or will be, required to hold a student visa to undertake or continue the course.

An overseas student becomes an accepted student of a provider once they are accepted for enrolment by the provider. This will occur before the student commences study.

Providers should maintain accurate records of when a student becomes accepted, and commissions that are given in relation to that students' recruitment.

## Does the ban apply to concurrent enrolment?

Yes, the commission ban also applies to enrolments for concurrent (or secondary) study, as the student has already commenced (and not yet completed) study with another provider.

The Department identified that the concurrent study function in PRISMS that allowed students to hold concurrent enrolments was being used as an avenue to avoid transfer restrictions under Standard 7 of the National Code. This function was removed in August 2023, so that providers cannot concurrently enrol students who are still transfer restricted under Standard 7.

Providers are reminded that they must issue a CoE for all overseas students they enrol, even where that student may be undertaking concurrent (or secondary) study.

In creating a CoE, a provider is obliged to ensure that prescribed information about students and courses is complete and accurate (e.g. in details of name, passport number and all other specified matters). PRISMS will provide an alert where a student is transfer-restricted so providers are aware that the student may not be accepted for the course without being 'released' from their principal course.

## Is there an exception to the commission ban for compassionate and/or compelling circumstances or provider default?

No, the commission ban applies to all transferring students who are accepted for enrolment at their new provider after 31 March 2026.

Once outside of their transfer restriction period, overseas students are free to transfer between providers. Where there is evidence of compassionate and/or compelling circumstances, a student may also be allowed to transfer before the end of their transfer restriction period (Standard 7.2.2.2).



Where a provider defaults, they have an obligation under section 46D of the ESOS Act to refund the affected overseas students' unspent tuition fees or arrange for the student to be offered a place in an alternative course. Where a provider is unable to fulfill these obligations, the Tuition Protection Service (TPS) will assist affected students.

As above, overseas students are still able to access assistance from, or otherwise engage the services of, an education agent at any time.

### **How should providers determine whether a student is transferring or not?**

Providers should take reasonable steps to determine whether a student has already commenced study with another provider, and if so:

- whether the course they have commenced is their principal course associated with their student visa, and
- whether the course is set to be complete prior to the new course commencing.

Providers should develop their own processes to determine whether or not payment of an agent commission is permitted in line with the ESOS Framework.

Any providers who pay or give education agent commissions in breach of Standard 4 may be subject to appropriate regulatory action or penalties.

