Education Services for Overseas Students (TPS Levies)
Amendment Bill 2017 [and] Education Services for
Overseas Students Amendment Bill 2017

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Contents

Purpose of the Bills.......................................................... 3
Background............................................................................. 3
The ESOS legislative framework ........................................... 3
The Tuition Protection Service .............................................. 3
The TPS levy........................................................................... 4
International student enrolment growth ......................... 5
Figure 1: international student enrolments to June
2017..................................................................................... 5
Provider closures................................................................. 6
Table 1: provider closures and resulting financial
impact on the OSTF (2012–13 to 2015–16) ...................... 6
The OSTF account balance................................................... 7
Committee consideration ..................................................... 7
Senate Standing Committee for the Scrutiny of Bills ......... 7
Policy position of non-government parties/independents.... 7
Position of major interest groups ........................................ 7
Financial implications ......................................................... 8
Statement of Compatibility with Human Rights .............. 8
Parliamentary Joint Committee on Human Rights .......... 8
Key issues and provisions.................................................... 8
Education Services for Overseas Students (TPS Levies)
Amendment Bill 2017......................................................... 8
Administrative and base fee calculations moved from the
ESOS (TPS Levies) Act 2012 to legislative instrument .... 8

Date introduced: 10 August 2017
House: House of Representatives
Portfolio: Education and Training
Commencement: The Education Services for Overseas Students (TPS Levies)
Amendment Act 2017 commences the day
after the Act receives Royal Assent.
Schedule 1 of the Education Services for Overseas Students Amendment Act 2017
will commence on the same day as the
Education Services for Overseas (TPS Levies)
Amendment Act 2017. However, the
provisions do not commence at all if that
Act does not commence. Other parts of the
Education Services for Overseas Students
Act 2017 commence on Royal Assent.

Links: The links to the Bills, Explanatory Memorandum
and second reading speeches can be found on the Bill
homepages for the Education Services for Overseas
Students (TPS Levies) Amendment Bill 2017 and
Education Services for Overseas Students Amendment
Bill 2017, or through the Australian Parliament
website.

When Bills have been passed and have received Royal
Assent, they become Acts, which can be found at the
Federal Register of Legislation website.

All hyperlinks in this Bills Digest are correct as at
September 2017.
Ministerial powers ................................................. 9

Other provisions .................................................... 9

Education Services for Overseas Students Amendment
Bill 2017 ................................................................. 9

Concluding comments ............................................. 10
Purpose of the Bills
The Education Services for Overseas Students (TPS Levies) Amendment Bill 2017 (the TPS Levies Amendment Bill) proposes to amend the Education Services for Overseas Students (TPS Levies) Act 2012 (the TPS Levies Act) to allow the Minister to determine, by legislative instrument, the Tuition Protection Service (TPS) levy amounts currently set in the Act, with the aim of providing the Minister with enough flexibility to address the current over-funding of the Overseas Students Tuition Fund (OSTF) and any funding level issues that may arise in the future.\(^1\)

The Education Services for Overseas Students Amendment Bill 2017 (the ESOS Amendment Bill) proposes minor technical and consequential amendments to the Education Services for Overseas Students Act 2000 (the ESOS Act) to reflect the changes proposed in the TPS Levies Amendment Bill.\(^2\)

Background
The ESOS legislative framework
The ESOS Act and related legislation provides the legal framework for the protection of international students coming to Australia to study on a student visa. The primary components of the framework are:

- the ESOS Act, which sets legislative requirements and standards for quality assurance for courses for international students, including arrangements and obligations for registration, requirements for a national code and tuition protection service, and monitoring and enforcement powers
- the National Code of Practice for Providers of Education and Training to Overseas Students 2017 (National Code), which sets the standards for the delivery of courses to international students.

Other components of the framework regulate specific parts of the system. For the TPS, the TPS Levies Act sets out arrangements for calculating and charging the TPS levy.

The Tuition Protection Service
The TPS commenced operations on 1 July 2012, giving effect to a key recommendation of the 2010 report of the Baird Review of the ESOS Act, to simplify the existing tuition protection framework in order to make it easier for students to navigate available support in the event of provider closure.\(^3\) The service covers Australia’s entire international education sector and assists international students studying in Australia if their provider is unable to fully deliver their course of study.\(^4\) Under Part 5 of the ESOS Act, students of discontinued courses either complete their studies in another course with their original provider, move to complete a course with another provider, or receive a refund of the unused portion of any pre-paid tuition fees.\(^5\)

The TPS provides guidance for providers in the event of a closure, including liaising with the TPS where appropriate to ‘ensure students are looked after following a default in a timely way’.\(^6\) Where the provider cannot fulfil its obligations to the student directly, the TPS acts as a single point of contact for students to manage the transfer or refund process.

The TPS is governed by a statutorily appointed TPS Director and an advisory board comprising a representative from each of the Department of Education and Training, Department of Finance, Department of Immigration and Border Protection, Australian Government Actuary, Australian Prudential Regulation Authority and up to seven other members appointed by the Minister on the basis of skills and experience.\(^7\)

The primary functions of the TPS Director under the ESOS Act are to:
- place and/or provide refunds to international students in accordance with the ESOS Act requirements

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2. Explanatory Memorandum, Education Services for Overseas Students Amendment Bill 2017, p. 2.
4. This is distinct from the tuition assurance scheme which operates for domestic students, administered (depending on the provider) by TAFE Directors Australia or Australian Council for Private Education and Training.
5. ESOS Act.
7. ESOS Act; Part 5A.
• report to the Minister on the operations of the TPS and the Overseas Student Tuition Fund (OSTF)
• manage the TPS to ensure it meets its liabilities
• make a TPS levy legislative instrument each year.\(^8\)

The TPS Advisory Board is responsible for advising the TPS Director on the annual TPS levy.\(^9\)

Department of Education and Training TPS Operations provides administrative and policy support, while the TPS Administrator manages the TPS placement system.\(^10\)

According to the 2014 Tuition Protection Service post-implementation review by the Department of Education and Training:

International students often pay large sums of money to study in Australia. Offering tuition protection to international students is a part of the high-quality experience Australia offers and differentiates Australia from its competitors in a highly competitive global environment.\(^11\)

International education providers across the sector have reported that there are significant benefits from the system.\(^12\) However, since its introduction, some public providers have expressed concern about the calculation of the levy which funds alternative courses and refunds for students, arguing that their costs exceed their risk of default. Universities Australia stated in its submission to the 2014 Review of the ESOS Framework Discussion Paper that ‘high quality, low risk providers ... continue to offset risk posed by other parts of the industry’.\(^13\)

**The TPS levy**

Funding for the TPS placement system, where the provider has not discharged its obligations and the student needs to be placed at another provider or issued a tuition refund, is provided by the industry through the TPS levy, which is charged as a condition for registration on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS), the record of all Australian education providers approved to offer courses to people studying in Australia on student visas.\(^14\) Levy revenue is paid into the OSTF, which is a special account for the purposes of the Public Governance, Performance and Accountability Act 2013 (the PGPA Act), and is established under section 52A of the ESOS Act.\(^15\)

Under section 5 of the TPS Levies Act, the amount of the TPS levy for a registered provider is the sum of four components: the administrative fee, base fee, risk rated premium and special tuition protection fee for the year. Currently, the calculations for the administrative and base fee components are set out in sections 6 and 7 of the TPS Levies Act:

- the administrative fee component is the sum of $100 and $2 multiplied by the total number of enrolments for the provider for the previous year
- the base fee component is the sum of $200 and $5 multiplied by the total number of enrolments for the provider for the previous year.\(^16\)

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8. Section 54B of the ESOS Act. See also Department of Education and Training (DET), Tuition Protection Service: post-implementation review, (report prepared for the Office of Best Practice Regulation within the Department of Prime Minister and Cabinet), DET, Canberra, December 2014, p. 29.
11. DET, Tuition Protection Service: post-implementation review, op. cit., p. 8.
12. Ibid., p. 19.
13. Universities Australia (UA), Universities Australia response to the review of the ESOS framework discussion paper, UA, Canberra, October 2014, p. 9.
15. Australian National Audit Office (ANAO), Agency management of special accounts, Audit report, 24, 2003–04, ANAO, Barton, ACT, 2004. The Department of Finance (DoF), ‘Special appropriations: special accounts’, DoF website, 30 August 2017, provides the following definition: ‘A special account is a limited special appropriation that notionally sets aside an amount that can be expended for listed purposes. The amount of appropriation that may be drawn from the CRF [Consolidated Revenue Fund] by means of a special account is limited to the balance of each special account at any given time’.
16. These figures reflect the administrative fee and base fee components when the TPS Levies Act commenced. The amounts have been indexed annually under section 8 of the TPS Levies Act. The current indexed amounts are $107 and $2.15 per student for the administrative fee component and $215 and $5.38 per student for the base fee component: Explanatory Memorandum, Education Services for Overseas Students (TPS Levies) Amendment Bill 2017, p. 3.
In contrast, under sections 9 and 10 of the *TPS Levies Act*, the risk rated premium and special tuition protection components of the levy rely on a risk factor and specified percentage which the TPS Director must set each year by legislative instrument.

Under section 12, the Minister may exempt classes of providers from paying the base fee and/or risk rated premium component of the levy. The *Education Services for Overseas Students (TPS Levies) Act 2012 (Levy exemptions) Determination 2012 (No. 1)* specifies that Table A providers (Australian public universities), government schools, and state or territory Vocational Education and Training (VET) institutions are exempt from the risk-rated premium component of the levy.\(^{17}\) Additionally, the specified percentage, which determines how much special tuition protection component providers must pay, has been set at zero every year since the TPS was introduced in 2012.\(^{18}\) Thus, the fees paid by all providers, the administrative and base fees, are responsive to fluctuations in student numbers, whereas changes to, and liability for, the risk rated premium and special tuition protection components are based on the decisions of the Minister and the TPS Director in response to provider risk factors and other relevant considerations.

### International student enrolment growth

In June 2017, Australia’s total international student enrolments reached 583,243, the highest level seen so far and a 13 per cent increase on the same time in 2016—a continuation of the recovery seen following the 2009–2013 downturn. Consistent with previous years, the majority of enrolments are in Higher Education (49 per cent), with substantial numbers in Vocational Education and Training (VET) (26 per cent) and English Language Intensive Courses for Overseas Students (ELICOS) (16 per cent) and smaller numbers in non-award studies such as the foundation courses that act as pathways into higher education (six per cent), and in schools (four per cent).\(^{19}\)

![Figure 1: international student enrolments to June 2017](image)


The proportion of enrolments with public providers varies across sectors, but in higher education, where almost half of international students are enrolled, only around seven per cent of all student load in 2015 (the most

\(^{17}\) *Education Services for Overseas Students (TPS Levies) Act 2012 (Levy exemptions) Determination 2012 (No. 1)*, clause 5.

\(^{18}\) *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2016; Education Services for Overseas Students (TPS Levies—Risk Rated Premium and Special Tuition Protection Components) Instrument 2015; Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Determination 2014; Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Determination 2013; Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Determination 2012.*

\(^{19}\) DET, *International student data 2017: 2017 pivot tables*, DET website, June 2017. This figure exceeds headcount because each time an individual enrols (for example, moving from a non-award to a higher education course) they are counted as an additional enrolment. Figures do not include those not on student visas (for example, ELICOS students on tourist visas or New Zealand students).
recent year of complete data) was at non-university higher education providers and private universities.\(^{20}\) In contrast, overall VET enrolments are predominantly with private providers (59 per cent in 2016) with only 18 per cent of VET enrolments at TAFE (the remainder being split between university, school, community education and enterprise providers).\(^{21}\) ELICOS enrolments (at 2016) are more evenly split between VET-based (31 per cent), university-based (26 per cent), stand-alone (23 per cent) and multisector (17 per cent).\(^{22}\)

**Provider closures**

While enrolments have grown strongly, driving increases in the administrative fee charges which all providers must pay, this has not been coupled with parallel growth in provider closures or resulting calls on the OSTF. As can be seen in Table 1 below, from its first year of operation in 2012–13 to 2015–16 (the most recent reporting year), the TPS has responded to 24 provider closures affecting 3,150 students. In 14 cases, the TPS was required to provide active assistance to students with 476 calls on the OSTF finalised at a total cost of $1,726,036.\(^{23}\)

**Table 1: provider closures and resulting financial impact on the OSTF (2012–13 to 2015–16)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Provider closures</th>
<th>Closures requiring TPS assistance</th>
<th>Students displaced</th>
<th>Number of calls on the OSTF finalised(^{(a)})</th>
<th>Cost of calls on the OSTF(^{(b)})</th>
<th>OSTF closing balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>9</td>
<td>6</td>
<td>907</td>
<td>172</td>
<td>$358,005</td>
<td>$5,981,998</td>
</tr>
<tr>
<td>2013–14</td>
<td>1</td>
<td>1</td>
<td>161</td>
<td>94</td>
<td>$187,266</td>
<td>$11,989,408</td>
</tr>
<tr>
<td>2014–15</td>
<td>2</td>
<td>1</td>
<td>548</td>
<td>23</td>
<td>$121,288</td>
<td>$19,869,000</td>
</tr>
<tr>
<td>2015–16</td>
<td>12</td>
<td>6</td>
<td>1,534</td>
<td>187</td>
<td>$1,059,477</td>
<td>$28,168,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24</strong></td>
<td><strong>14</strong></td>
<td><strong>3,150</strong></td>
<td><strong>476</strong></td>
<td><strong>$1,726,036</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: Annual report 2012–13; Annual report 2013–14; Annual report 2014–15; Annual report 2015–16.\(^{24}\)

(a) Number of calls on the OSTF finalised and costs include calls initiated in previous years. Future calls and costs may include students whose provider closed in 2015–16. Previous costs are no indication of future costs.

According to the TPS Annual Report 2015–16, its recent activities have been precipitated by regulatory action by the national higher education and VET regulators—the disaggregated figures provided for 2015–16 show the majority (nine) of closures in the most recent year were VET providers, with regulatory action precipitating all but one of these.\(^{25}\) The TPS Annual Report 2015–16 also states that the proportion of closures requiring active TPS assistance and resulting in calls on the OSTF has been falling due to improved closure processes and consultation.\(^{26}\)

This experience is markedly different from the situation in the sector when the TPS was being developed. According to the Department of Education and Training, $27.5 million was charged to the precursor fund to the TPS (the ESOS Assurance Fund) between 2008 and 2011, when following a period of rapid enrolment growth, a high dollar, changed immigration settings, the global financial crisis and attacks on Indian students led to a sudden decline in student numbers that precipitated 54 provider closures, affecting 13,000 international students, of whom only 312 were assisted by their providers.\(^{27}\)

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20. Of 1,002,378 full time equivalent higher education students, only 65,208 were enrolled in private universities and non-university higher education providers, equating to 6.5 per cent. See DET, ‘2015 all student load’, DET website, 7 September 2016.
22. It should be noted that ELICOS enrolments are substantially underestimated in the international student data as, due to the shorter length of courses, students can study on other visa types. English Australia, *National ELICOS market report 2016*, English Australia, Sydney, June 2017, p. 10.
24. Ibid.
25. TPS, *Annual report 2015–16*, op. cit. Disaggregated figures are not provided for previous years.
26. Ibid.
The OSTF account balance

As indicated in Table 1 above, the OSTF balance has been increasing since 2012, and reached a closing balance of just over $28 million at 30 June 2016. As such, the fund risks exceeding the ‘target range of $30 to $50 million recommended by the Australian Government Actuary and endorsed by the TPS Advisory Board’.

The OSTF account balance is driven by a complex range of interacting factors, which, as the 2009–13 downturn demonstrated, can be difficult to plan for over the longer term. Not only are fees driven largely by variations in student numbers (through base and administrative fee charges), but calls on the OSTF are shaped by choices students make about their education, such as where to enrol (i.e. with higher-risk providers or not), the size of closing providers and resulting number of students displaced, and the capacity of closing providers to meet their obligations to students.

The TPS Levies Amendment Bill’s Explanatory Memorandum states that the TPS Director has sought to reign in the fund’s growth, but due to the split of the fee structure between the TPS Levies Act and the yearly TPS levy instrument, the risk rated premium component has been the only means to achieve this, raising concerns that any further reductions would ‘result in the loss of an effective price signal to higher risk providers’.

Consequently, the Bills seek to establish a mechanism to moderate the balance of the OSTF, in line with the fluctuations of both its funding and its costs.

Committee consideration

Senate Standing Committee for the Scrutiny of Bills

The Senate Standing Committee for the Scrutiny of Bills has considered the TPS Levies Amendment Bill and the ESOS Amendment Bill. It had no comment on the ESOS Amendment Bill, but in relation to the TPS Levies Amendment Bill it raised concerns about a ‘rate of tax’ being set by legislative instrument and suggested it may be appropriate for the Bill to be amended to further increase parliamentary oversight by:

- requiring the positive approval of each House of the Parliament before a new determination under proposed subsection 7A comes into effect; or
- providing that the determinations do not come into effect until the relevant disallowance period has expired (while retaining the usual procedures in subsection 42(2) of the Legislation Act 2003 so that any determinations are taken to be disallowed if a disallowance motion remains unresolved at the end of the disallowance period).

The Committee has sought the Minister’s response in relation to this matter.

Policy position of non-government parties/independents

At the time of writing no non-government parties or independents have commented specifically on the Bills.

Position of major interest groups

While at the time of writing there have not been any sector responses directly to the Bills, the TPS Levies Amendment Bill responds to long-running concerns raised by the universities about the proportionality of the levy.

Extending Universities Australia’s claim (mentioned above) that ‘high quality, low risk providers ... offset risk posed by other parts of the industry’ the Group of Eight stated in a submission to the House of Representatives Standing Committee on Education and Employment inquiry into the Education Services for Overseas Students (TPS Levies) Bill 2012:

Considering their low risk status, universities carry a heavy financial burden due to administrative charges linked to volume of enrolments.

The University of Sydney, in its submission to the Tuition Protection Service post-implementation review, stated:

29. Ibid., p. 2.
The TPS may have benefits in protecting students from private providers who default in their obligations to students, however, as a higher education provider, we do not consider the benefit to be commensurate with the cost and burden attached to reporting/regulation.\(^{32}\)

While the Bills do not necessarily reduce the fees charged to public providers, the proposed changes would give the Minister scope to do so for the first time.

**Financial implications**

The Explanatory Memorandum for the ESOS Amendment Bill notes that the Bill will have no financial implications.\(^ {33}\)

The Explanatory Memorandum for the TPS Levies Amendment Bill notes that the Bill will not have any direct impacts for the Commonwealth. However, it states that ‘the legislative instrument that is created under the amended Act may result in revenue gains or losses in future years depending on the amounts for the administrative and base fee components of the levy set by the Minister’.\(^ {34}\)

**Statement of Compatibility with Human Rights**

As required under Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), the Government has assessed the Bills’ compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the Bills are compatible.\(^ {35}\)

**Parliamentary Joint Committee on Human Rights**

The Parliamentary Joint Committee on Human Rights considers that neither Bill raises human rights concerns.\(^ {36}\)

**Key issues and provisions**

**Education Services for Overseas Students (TPS Levies) Amendment Bill 2017**

**Administrative and base fee calculations moved from the ESOS (TPS Levies) Act 2012 to legislative instrument**

*Item 5* proposes to replace sections 6 and 7 of the *TPS Levies Act*, which currently set out the calculations for the administrative and base fee components of the levy, with *proposed sections 6 and 7* providing that dollar amounts determined in an instrument under *proposed section 7A* and subject to indexation under section 8 will make up the administrative and base fee charges.

*Proposed section 7A* sets out that before 1 January 2018 the Minister must determine, by legislative instrument, the administrative and base fee amounts for that year. The proposed section also provides that the Minister may make determinations for later years prior to 1 January each year—the use of *may* in this part indicates that this is not a requirement. *Proposed subsection 7A(3)* also provides upper limits for the amounts the Minister is able to determine for paragraphs 6(a) or (b) or 7(a) or (b). These upper limits match the current indexed amounts for the administrative and base fees.\(^ {37}\)

The Bill makes no changes to sections 9 and 10 of the *TPS Levies Act*, which provide that the risk factor and specified percentage for the risk rated premium and special tuition protection components of the levy are set by the TPS Director by legislative instrument.

*Item 6* proposes to repeal existing subsections 8(1) and (2) and replace them with *proposed subsections 8(1), (2)* and *(2A)*. The existing subsections provide for the indexation of the administrative and base fee components of the TPS levy, based on an indexation formula. The proposed changes maintain the indexation formula, with some minor changes. As currently, the administrative and base fee components will be indexed according to the

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33. *Explanatory Memorandum*, Education Services for Overseas Students Amendment Bill 2017, p. 3.
34. *Explanatory Memorandum*, Education Services for Overseas Students (TPS Levies) Amendment Bill 2017, p. 3.
35. The Statements of Compatibility with Human Rights can be found at page 4 of the Explanatory Memorandum to each Bill.
change in the Consumer Price Index over a year. Under current section 8, these amounts are indexed each year. Under **proposed subsection 8(1)** indexation will apply to the amounts set out by the Minister in the legislative instrument for each year that the instrument applies, other than the first year. (That is, if the Minister makes a legislative instrument by 31 December to apply to the following calendar year, the amounts set out in that instrument will not be indexed in that first calendar year.)

Currently, section 11 of the *TPS Levies Act*, which sets out the rules for making a legislative instrument under section 9 or 10, states ‘before the TPS Director makes (within the meaning of the *Legislation Act 2003*) a legislative instrument under subsections 9(3) and 10(2), the Treasurer must approve the legislative instrument in writing’. No further guidance is provided on the basis for this approval. The content of section 11 is unchanged by the Bill.

The combined effect of **proposed section 7A** with sections 9, 10 and 11 is to split the fee-setting powers for the four components of the levy between:

- the required yearly legislative instrument for the risk rated premium and special tuition protection components, which is made by the TPS Director and approved by the Treasurer and
- the legislative instrument determining the administrative and base fee components, which will be made by the relevant Minister (currently the Minister for Education and Training).³⁹

It is not clear if this split of fee-setting powers between the Treasurer and the Minister for Education and Training would create a need for additional coordination between these fee components in order to manage stakeholder concerns and the OSTF balance effectively, or if the TPS Advisory Board’s existing arrangements would be sufficient to facilitate this.

**Ministerial powers**

The Senate Standing Committee for the Scrutiny of Bills has asked the Minister to consider options for increasing Parliamentary oversight given that the Bill proposes that calculations for fees currently within the *TPS Levies Act* be determined by legislative instrument.⁴⁰

As a disallowable instrument, the fee determinations will be subject to Parliamentary scrutiny. The Bill also goes some way to limiting Ministerial powers in **proposed section 7A(3)**, *(item 5)* which sets an upper limit on the amount the Minister can determine, limiting each component to the current indexed amounts (as discussed above).

Additionally, while the fees currently within the *TPS Levies Act* are not subject to ongoing consultation with the sector (and have, when consultation is undertaken, raised objections from universities as discussed above), under section 17 of the *Legislation Act 2003* before a legislative instrument is made, the rule-maker must be satisfied that appropriate consultation has been undertaken where practical. Consultation over the full breadth of fee components making up the levy would conform to the strong stakeholder engagement approach reported by the TPS Director in the TPS Annual Report 2015–16.⁴¹

**Other provisions**

*Education Services for Overseas Students Amendment Bill 2017*

The ESOS Amendment Bill proposes minor technical and consequential amendments to the *ESOS Act* to reflect the changes proposed in the TPS Levies Amendment Bill.

**Items 1 and 2** clarify the wording of the Act by changing the reference to the TPS Director ‘setting the amount’ of the TPS levy to ‘working out the amount’ of the TPS levy. This acknowledges that the Minister is responsible for setting elements of the levy, which the Director must then take into account in working out the total TPS levy amount.

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³⁸.  *Item 1* proposes to move the definition of ‘indexation number’ currently in section 8, into section 4 of the *TPS Levies Act*. No change is proposed to the definition itself, however, some refinement of wording is proposed to the calculation formula to clarify its meaning.

³⁹.  See: *Administrative Arrangements Order*, 1 September 2016.


Item 3 is a consequential amendment following the changes proposed through the TPS Levies Amendment Bill to clarify that the TPS Director must determine the TPS levy amount in accordance with the TPS Levies Act. The ESOS Act currently states that the TPS Director must ‘determine the amount [of the TPS levy] in accordance with the legislative instrument made under subsections 9(3) and 10(2) of the Education Services for Overseas Students (TPS Levies) Act 2012 for that year’. The Bill proposes that this be changed to require the TPS Director to determine the amount in accordance with the Education Services for Overseas Students (TPS Levies) Act 2012’.

Concluding comments

The TPS operates as a key component of the framework for the protection of international students coming to Australia to study on a student visa. The higher than anticipated growth rate of the OSTF presents a challenge to its management and could exacerbate existing concerns from some universities about the fees that make up the TPS levy, should it grow in excess of what is required for its function.

The proposal in the TPS Levies Amendment Bill, to replace the fee calculations in the TPS Levies Act with a legislative instrument to be made by the Minister, would provide a more flexible mechanism to moderate funding available to the OSTF, and provide the TPS with the capacity to consult more comprehensively over fees and (if appropriate) address concerns raised by some universities that their fee responsibilities are out of proportion with their risk of default.

However, in light of the role of the Treasurer in approving the legislative instrument made each year by the TPS Director for the risk-rated premium and special tuition protection components of the levy, it is not clear if existing arrangements provide sufficient coordination between the two rule-makers for the responsiveness of the proposed arrangements to be realised.