



# **Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2018**

---

I, Vipin Mahajan, TPS Director, make the following instrument under sections 9 and 10 of the *Education Services for Overseas Students (TPS Levies) Act 2012*.

Dated: 21 December 2018

Vipin Mahajan  
TPS Director

---

---

# Contents

<b>Part 1—Introduction</b>	1
1 Name.....	1
2 Commencement .....	1
3 Authority.....	1
4 Schedules .....	1
5 Definitions .....	1
<b>Part 2—Risk factors for risk rated premium component</b>	3
6 Risk rated premium component .....	3
7 Risk factor—payment in arrears .....	3
8 Risk factor—length of operation.....	3
9 Risk factor—volatility in overseas student enrolments .....	4
10 Risk factor—maximum overseas source country concentration .....	6
11 Risk factor—non-compliance history .....	7
12 Recalculation of risk factors when registrations amalgamated and national registration on CRICOS is finalised during 2018.....	8
<b>Part 3—Special tuition protection component</b>	9
13 Special tuition protection component.....	9
<b>Schedule 1—Repeals</b>	10
<i>Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2017</i>	10

## Part 1—Introduction

### 1 Name

This is the *Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2018*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Parts 1 to 3	31 December 2018	31 December 2018
2. Schedule 1	1 January 2019	1 January 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under sections 9 and 10 of the *Education Services for Overseas Students (TPS Levies) Act 2012*.

### 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

### 5 Definitions

Note: The expression, *risk rated premium component*, is used in this instrument and is defined in the *ESOS (TPS Levies) Act*.

In this instrument:

*annual registration charge* or *ARC* has the same meaning as in the *Education Services for Overseas Students Act 2000*.

*ARC*: see *annual registration charge*.

*CRICOS* means the Commonwealth Register of Institutions and Courses for Overseas Students.

**enrolments** means the total enrolments for a registered provider worked out in accordance with section 5 of the *Education Services for Overseas Students (Registration Charges) Act 1997*.

**entry to market charge** or **ETMC** has the same meaning as in the *Education Services for Overseas Students Act 2000*.

**ESOS Act** means the *Education Services for Overseas Students Act 2000*

**ESOS (TPS Levies) Act** means the *Education Services for Overseas Students (TPS Levies) Act 2012*.

**ETMC**: see **entry to market charge**.

**length of operation**, for a provider, means the number of years that the provider has been registered on CRICOS as a CRICOS provider:

- (a) beginning at the time the provider was registered, or last registered, as a CRICOS provider; and
- (b) ending on 31 December 2018.

**national registration process**, for a provider, means the process of amalgamating 2 or more of the provider's registrations on CRICOS into a single registration.

Note: For the process to request amalgamation, see item 96 of Schedule 2 to the *Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012*.

**non-exempt provider** means a registered provider that is not exempt from the requirement to pay the risk rated premium component, as provided for by section 5 of the *Education Services for Overseas Students (TPS Levies) (Levy exemptions) Determination 2012 (No. 1)*.

Note: The registered providers listed in that Determination as being exempt from the risk rated premium component were, in 2017, Table A providers under the *Higher Education Support Act 2003*, Government schools and State or Territory VET institutions.

**provider** has the same meaning as in the *Education Services for Overseas Students Act 2000*.

**registered course** means a course of education or training registered on CRICOS.

**TPSL**: see **TPS levy**.

**TPS levy** or **TPSL** has the same meaning as in the *Education Services for Overseas Students Act 2000*.

**tuition fees** has the same meaning as in the *Education Services for Overseas Students Act 2000*.

## Part 2—Risk factors for risk rated premium component

### 6 Risk rated premium component

- (1) For the purposes of paragraph 9(3)(a) of the *ESOS (TPS Levies) Act*, the percentage for 2019 is 0.07%.
- (2) For the purposes of paragraph 9(3)(b) of the *ESOS (TPS Levies) Act*, the following risk factors are specified:
  - (a) payment in arrears;
  - (b) length of operation;
  - (c) volatility in overseas student enrolments;
  - (d) maximum overseas source country concentration;
  - (e) non-compliance history.

### 7 Risk factor—payment in arrears

- (1) The risk factor, payment in arrears, applies to a non-exempt provider.
- (2) For the purposes of paragraph 9(3)(c) of the *ESOS (TPS Levies) Act*, the increase factor is:
  - (a) if, for all registered courses, a non-exempt provider receives tuition fees after a course is fully provided— 0.2; or
  - (b) if a non-exempt provider receives any tuition fee for a course in advance of the course being provided— 1.0.

### 8 Risk factor—length of operation

#### *Application*

- (1) The risk factor, length of operation, applies to a non-exempt provider that receives at least part of their tuition fees in advance of a course being provided.

#### *Factor by which specified percentage is multiplied*

- (2) For the purposes of paragraph 9(3)(c) of the *ESOS (TPS Levies) Act*, the increase factor is that set out in the following table:

<b>Registered provider's length of operation</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If a registered provider's length of operation is ...</b>	<b>then, the factor is ...</b>
1	less than 1 year	2.6
2	1 year or more but less than 2 years	1.7
3	2 years or more but less than 3 years	1.1
4	3 years or more but less than 5 years	0.6
5	5 years or more	0.0

**9 Risk factor—volatility in overseas student enrolments***Application*

- (1) The risk factor, volatility in overseas student enrolments, applies to a non-exempt provider that:
- receives at least part of their tuition fees in advance of all courses being fully provided; and
  - has a length of operation of 5 years or more; and
  - had at least 20 enrolments, or \$400,000 or more in tuition fee income, in 2018.

*Factor by which specified percentage is multiplied*

- (2) For the purposes of paragraph 9(3)(c) of the *ESOS (TPS Levies) Act*, where the provider is an expanding provider, as determined under subsection (4) of this instrument, the increase factor is that set out in the following table:

<b>Registered provider's volatility in overseas student enrolments</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If a registered provider's volatility in overseas student enrolments is ...</b>	<b>then, the factor is ...</b>
1	60% or more	3.1
2	30% or more but less than 60%	1.0
3	10% or more but less than 30%	0.3
4	less than 10%	0.0

- (3) For the purposes of paragraph 9(3)(c) of the *ESOS (TPS Levies) Act*, where the provider is not an expanding provider, as determined under subsection (4) of this instrument, the increase factor is that set out in the following table:

<b>Registered provider's volatility in overseas student enrolments</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If a registered provider's volatility in overseas student enrolments is ...</b>	<b>then, the factor is ...</b>
1	60% or more	1.5
2	30% or more but less than 60%	0.5
3	10% or more but less than 30%	0.2
4	less than 10%	0.0

*Determining whether a registered provider is an expanding provider*

- (4) A registered provider is an expanding provider if one of the following two conditions is met:
- the registered provider had overseas enrolments in 2016 and the number of overseas enrolments in 2018 was greater than the number of overseas enrolments in 2016; or
  - the registered provider did not have overseas enrolments in 2016, but did have overseas enrolments in 2017 and the number of overseas enrolments in 2018 was greater than the number of overseas enrolments in 2017

*Working out the percentage of a registered provider's volatility in overseas student enrolments*Volatility in student enrolments

- (5) If a registered provider did not have overseas student enrolments in 2016 and 2017 the registered provider's growth in overseas student enrolments is zero.<sup>2</sup>
- (6) If a registered provider meets the condition set out in paragraph (4)(a) of this section, the percentage of a registered provider's volatility in overseas student enrolments is worked out using the formula:

$$\left[ \frac{\text{Number of overseas student enrolments in 2018}}{\text{Number of overseas student enrolments in 2016}} - 1 \right] \times 100\%$$

- (7) If a registered provider meets the condition set out in paragraph (4)(b) of this section, the percentage of a registered provider's volatility in overseas student enrolments is worked out using the formula:

$$\left[ \left\{ \frac{\text{Number of overseas student enrolments in 2018}}{\text{Number of overseas student enrolments in 2017}} \right\}^2 - 1 \right] \times 100\%$$

- (8) If a registered provider is not an expanding provider as determined under subsection (4) and had overseas student enrolments in 2016, the percentage of a registered provider's volatility in overseas student enrolments is worked out using the formula:

$$\left[ 1 - \frac{\text{Number of overseas student enrolments in 2018}}{\text{Number of overseas student enrolments in 2016}} \right] \times 100\%$$

- (9) If a registered provider is not an expanding provider as determined under subsection (4) and did not have overseas student enrolments in 2016, but had overseas student enrolments in 2017, the percentage of a registered provider's volatility in overseas student enrolments is worked out using the formula:

$$\left[ 1 - \left\{ \frac{\text{Number of overseas student enrolments in 2018}}{\text{Number of overseas student enrolments in 2017}} \right\}^2 \right] \times 100\%$$

**10 Risk factor—maximum overseas source country concentration***Application*

- (1) The risk factor, maximum overseas source country concentration, applies to a non-exempt provider that:
- (a) receives at least part of their tuition fees in advance of all courses being fully provided; and
  - (b) had at least 20 enrolments, or \$400,000 or more in tuition fee income, in 2018.

*Factor by which specified percentage is multiplied*

- (2) For the purposes of paragraph 9(3)(c) of the *ESOS (TPS Levies) Act*, the increase factor is that set out in the following table:

<b>Registered provider's maximum overseas source country concentration</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If a registered provider's maximum overseas source country concentration is ...</b>	<b>then, the factor is ...</b>
1	80% or more	3.1
2	50% or more but less than 80%	0.7
3	25% or more but less than 50%	0.3
4	less than 25%	0.0

*Working out the maximum overseas source country concentration percentage*

- (3) A registered provider's maximum overseas source country concentration is worked out using the formula:

$$\left[ \frac{\text{Largest number of overseas student enrolments for a country}}{\text{Total number of overseas student enrolments}} \right] \times 100\%$$

where:

**largest number of overseas student enrolments for a country** means, of the number of enrolments with the registered provider for each overseas source country in 2018, the largest number of enrolments for any of those overseas source countries in 2018.

**total number of overseas student enrolments** means the total number of overseas student enrolments with the registered provider in 2018.



**11 Risk factor—non-compliance history***Application*

- (1) The risk factor, non-compliance history, applies to a non-exempt provider.

*Factor by which specified percentage is multiplied*

- (2) For the purposes of paragraph 9(3)(c) of the Act, the increase factor is that set out in the following table:

<b>Non-compliance history</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If a registered provider ...</b>	<b>then, the factor is ...</b>
1	(a) has a weighted late payment measure of 30 days or more; or (b) has been sanctioned for non-compliance under section 83 of the <i>ESOS Act</i> in the last year	2.0
2	has a weighted late payment measure of 15 days or more but less than 30 days	0.9
3	has a weighted late payment measure of one day or more but less than 15 days	0.7
4	does not have a weighted late payment measure (payment on time)	0.0

*Working out the weighted late payment measure*

- (3) A registered provider's weighted late payment measure is worked out by adding the results of the calculations in paragraphs (a), (b) and (c):
- (a) for the 2018 year, work out  $0.7 \times [\text{ARC} + \text{ETMC} + \text{TPSL}]$ ; and
  - (b) for the 2017 year, work out  $0.2 \times [\text{ARC} + \text{ETMC} + \text{TPSL}]$ ; and
  - (c) for the 2016 year, work out  $0.1 \times [\text{ARC} + \text{ETMC} + \text{TPSL}]$ ; and
- where:

*ARC*, for a year, means:

- (a) the number of days after the due date on which the annual registration charge for that year was received; or
- (b) if payment was received on or before the due date—zero.

*ETMC*, for a year, means:

- (a) the number of days after the due date on which the entry to market charge for that year was received; or
- (b) if the payment was received on or before the due date—zero.

*TPSL*, for a year, means:

- (a) the number of days after the due date on which the TPS levy payable for that year was received; or
- (b) if the TPS levy was received on or before the due date—zero.

---

**12 Recalculation of risk factors when registrations amalgamated and national registration on CRICOS is finalised during 2018**

- (1) This section applies if a provider amalgamates 2 or more registrations on CRICOS into a single registration through the national registration process.
- (2) The provider's risk factors in sections 7 to 11 are to be recalculated as follows:
  - (a) the risk factor payment in arrears is to be calculated on the basis of the fee structure for the resultant merged entity (or registration);
  - (b) the risk factor length of operation is to be calculated in respect of the resultant merged entity (or registration) for the period:
    - (i) beginning at the start of the longest-running registration in the amalgamation; and
    - (ii) ending on 31 December 2018;
  - (c) the risk factor volatility in overseas student enrolments is to be calculated using subsections 9(5) to 9(9), but treating the number of overseas student enrolments for a year as the sum of student enrolments for all registrations in that year that were amalgamated into the single registration;
  - (d) the risk factor maximum overseas students source country concentration is to be calculated using subsection 10(3), as follows:
    - (i) the number of enrolments for each overseas source country is to be calculated as the sum of the enrolments for that overseas source country with each of the registrations that were amalgamated into the single registration;
    - (ii) the total number of enrolments is to be calculated as the sum of the total number of enrolments for all registrations that were amalgamated into the single registration;
  - (e) the risk factor non-compliance history is to be calculated for the resultant merged entity (or registration), including late payment measure and the sanctions for non-compliance under section 83 of the *ESOS Act*, in the 2018 year;
  - (f) the overseas students' tuition fee income for the 2018 year is to be calculated as the sum of the overseas students' tuition fee income for all registrations that were amalgamated into the single registration.

## **Part 3—Special tuition protection component**

### **13 Special tuition protection component**

For the purposes of subsection 10(2) of the *ESOS (TPS Levies) Act*, the specified percentage for 2019 is zero.

---

## **Schedule 1—Repeals**

### ***Education Services for Overseas Students (TPS Levies) (Risk Rated Premium and Special Tuition Protection Components) Instrument 2017***

#### **1 The whole of the instrument**

Repeal the instrument.