INDEPENDENT HIGHER EDUCATION AUSTRALIA

The Hon Julian Hill MP
Assistant Minister for International Education
Parliament House
CANBERRA ACT 2600

Dear Minister Hill

Student visa course progression exemption and definition of a higher education provider

I am writing on behalf of Independent Higher Education Australia (IHEA) to raise a concern regarding the course progression exemption introduced through the Migration (LIN 20/158: Class of Persons for Student (Temporary) (Class TU) Visa Applications) Amendment Instrument 2026 (LIN 26/087), which commenced on 2 October 2026.

We have identified a potential unintended consequence of the new arrangements that may disadvantage some registered independent higher education providers and their international students.

Section 19 of the amended instrument allows an existing Student visa holder, in specified circumstances, to apply onshore for a further Student visa after completing their principal course and progressing to a course at a higher Australian Qualifications Framework (AQF) level.

However, where the completed principal course was a higher education course, the subsequent course must also be a higher education course delivered by a higher education provider.

The relevant legislation distinguishes between three forms of higher education provider recognition.

Under the *Tertiary Education Quality and Standards Agency Act 2011*, a registered higher education provider is registered by TEQSA under Part 3 and listed on the National Register of Higher Education Providers. Registration subjects providers to the Higher Education Standards Framework (Threshold Standards) and establishes their standing to deliver higher education within the national regulatory framework.

Under the *Education Services for Overseas Students Act 2000*, a registered provider is registered to provide specified courses to overseas students at specified locations. CRICOS records those registrations. For international students, this is the framework governing whether a provider may deliver the relevant course to Student visa holders.

By contrast, Section 16–1 of the *Higher Education Support Act 2003* (HESA) defines a higher education provider by reference to approval under Division 16. HESA approval is a separate statutory status associated with Commonwealth higher education funding and student assistance, including the Higher Education Loan Program (HELP) for eligible students. Although TEQSA registration is a prerequisite for relevant HESA approvals, TEQSA and CRICOS registration do not themselves confer HESA approval.

However, Section 19 of LIN 26/087 adopts the HESA definition of a higher education provider, rather than the definition under the TEQSA Act.

As a consequence, two providers may both be registered by TEQSA, hold CRICOS registration for accredited Master's courses and meet the same relevant quality and international education requirements, yet only the HESA approved provider would satisfy this particular condition of the onshore course progression exemption. For example, a student completing an AQF level 7 Bachelor degree may be eligible to progress

onshore to an AQF level 9 Master's course at one provider but not an equivalent course at the other, even where all other visa requirements are met.

This appears anomalous because the exemption concerns an international student's ability to continue studying in Australia, rather than eligibility for Commonwealth funding or student loan assistance.

TEQSA registration establishes the provider's regulatory status and subjects it to national higher education standards, while CRICOS registration authorises the delivery of specified courses to overseas students. These requirements are more directly relevant to the purpose of the exemption than HESA approval, which does not appear to provide an additional test of the provider's suitability to deliver the course to international students.

IHEA is concerned that using the HESA definition may unnecessarily restrict student choice and disadvantage independent providers that are appropriately registered and regulated but do not hold, or need to hold, HESA approval.

IHEA therefore requests that Section 19 be amended so that the course progression exemption applies to higher education courses delivered by TEQSA–registered higher education providers where the relevant course is registered on CRICOS, irrespective of whether the provider holds HESA approval.

Given that the arrangements commenced on 2 October 2026, we would appreciate your early consideration of this matter to provide certainty for affected providers and students.

Yours sincerely



The Hon. Dr Peter Hendy
Chief Executive Officer
Independent Higher Education Australia
14 October 2026