



Regulatory Reform of the International Education Sector and the Student Immigration Regime

Policy Statement

September 2014



1. INTRODUCTION

- 1.1 Ireland has a strong reputation for delivery of high-quality education services both to our own citizens and those who come here from abroad. A degree from an Irish university, Institute of Technology or high-quality private sector provider is an indicator of significant educational achievement, highly valued by our students and employers alike. Ireland is also a specialist in high-quality English Language tuition. Many thousands of students from the EU and around the world come to Ireland for full-time or short-term programmes.
- 1.2 The high-quality international education sector is valued by the Government. Internationalisation of education services provides strong benefits to Irish and international students and gives Ireland the potential to develop global networks through fostering international talent. The high-quality sector also makes a significant contribution to the Irish economy, estimated as in excess of €800m.
- 1.3 National policy in this area was set out in *Investing in Global relationships: Ireland's International Education Strategy 2010-2015*. The central aim of the strategy is that Ireland should become “internationally recognised and ranked as a world leader in the delivery of high-quality international education by providing a unique experience and long-term value to students.” In order to achieve this aim, the strategy also recognises that “quality must be at the heart of Ireland’s international education offering.” It is intended to publish a review of the strategy later in 2014 to further advance the development of the high-quality sector.
- 1.4 The Government is committed to developing the sector further on the basis of high-quality provision in the public and private sectors. To assist the sector in an internationally competitive environment, the Government supports the international promotion of high-quality higher education and English language training through Enterprise Ireland and Fáilte Ireland. As further and vocational education and training are not identified as strategic to Ireland’s international offering, there is no publicly-supported international marketing of further or vocational education. Furthermore, and in line with international practice, non-EEA¹ students are permitted to access the labour market to support themselves while they are in Ireland.
- 1.5 In recent months, a range of issues have been highlighted regarding the activities of some private sector providers, including questions relating to the validity of examinations, falsification of attendance records and immigration abuses. Four providers were suspended by the Irish Naturalisation and Immigration Service (INIS)

¹ EEA: European Economic Area.

for immigration purposes (i.e. no new students would be granted immigration permission on the basis of attending a programme at that provider) and a number of providers have shut down at short notice, leaving over 2,000 students unable to complete their programme.

- 1.6 A Task Force was established by the Minister for Education and Skills and the Minister for Justice and Equality to find a reasonable accommodation for the students affected. The final report of the Task Force is being published alongside this Policy Statement.
- 1.7 Since 2010, significant enhancements have been made to the regulatory and immigration framework in which the international education sector operates. However, as the Task Force report highlights, it is evident that significant issues remain. The recent closures are symptomatic of systemic and governance problems in a segment of the international education sector that urgently need to be addressed.
- 1.8 This paper sets out a series of actions that will be taken to protect the consumer and educational interests of genuine students, address abuse of the labour market, protect the high-quality public and private providers of international education in Ireland and safeguard Ireland's reputation.
- 1.9 The Government will keep these measures under review to ensure their effectiveness, and further reforms will be implemented if deemed necessary.

2. CURRENT REGULATORY ENVIRONMENT

- 2.1 At present a student coming from outside the European Economic Area (EEA) can only come to Ireland to attend a programme that is on what is known as the Internationalisation Register (IR). Initially the Register was established to regulate access to the work concession for non-EEA students (i.e. only students attending programmes listed on the IR are permitted to take up casual employment). However over time it has become a *de facto* prerequisite for immigration permission as a student. Inclusion on the Register is not an endorsement of the quality of the programme or provider, but rather confirmation that the programme meets certain criteria.
- 2.2 Quality and Qualifications Ireland (QQI) has administered the Register on behalf of INIS and the Department of Education and Skills since March 2010. Criteria for inclusion in the Register have been strengthened in recent years to restrict potential for abuse of the system.
- 2.3 Immigration reforms were introduced in 2011 including, in particular, limits on the time a non-EEA national could spend as a student in Ireland and also elimination of certain lower-level programmes from the Register.
- 2.4 Students who come from visa-required countries apply for a study visa in advance. All students register with the Garda Authorities (Garda National Immigration Bureau in Dublin and in various Garda stations around the country) and are granted residence permission in accordance with the guidelines laid down by INIS. Non-EEA students can spend up to 3 years in language or non-degree programmes and up to 7 years overall as a student. They are required to hold private medical insurance, attend their programmes (80% minimum) and demonstrate that they have funds to support themselves.
- 2.5 Education providers are subject to unannounced inspection by INIS and GNIB for immigration control purposes. ACELS-recognised² English language training organisations are inspected by QQI.
- 2.6 Provision for an International Education Mark (IEM) and Code of Practice for international learners is made under the *Qualifications and Quality Assurance*

² ACELS: Accreditation and Co-ordination of English Language Services –since 2011, a function of QQI providing voluntary quality assurance in the English language sector. Prior to this ACELS was a separate body under the aegis of the Department of Education and Skills.

(Education and Training) Act 2012, in keeping with the recommendation in Investing in Global Relationships: Ireland's International Education Strategy 2010-2015.

- 2.7 The Code of Practice will address a range of matters of relevance to international students, including protection for enrolled learners, recruitment and admission, information provision, student welfare, cultural awareness and academic support provisions.
- 2.8 Public and private providers of education and training will be eligible to apply for the IEM once they have agreed their overall arrangements for quality assurance with QQI. QQI will authorise the use of the IEM by providers where they can demonstrate compliance with the Code of Practice and any associated eligibility criteria specific to the acquisition of the IEM. It is intended that applications for the International Education Mark will be taken from January 2015.

3. THE INTERNATIONAL EDUCATION SECTOR IN IRELAND

- 3.1 Most of the sector in Ireland is of high repute and quality. High-quality international education is delivered in a range of universities, institutes of technology, and private and State-supported education providers as well as a substantial number of ACELS-recognised English language schools. The majority of students attending such providers usually come from Ireland or from within the EU.
- 3.2 The international activities of these providers align with national policy: they provide high-quality education, they add significant long-term value to their students, and their activities enhance Ireland's international reputation.
- 3.3 Further policies and measures to promote the high-quality sector will be contained in the forthcoming review of the international education strategy, which it is intended to publish later in 2014.
- 3.4 However, as is the case in all countries which seek to attract international students, there are a small but active group of providers for which education is not the priority, but which instead primarily seek to use education as a cover to facilitate access to the labour market. The right to live and work legally in Ireland is valuable in its own right and, for many, enrolment in an educational programme is motivated by the desire to access the labour market rather than any personal education aspirations. Inevitably, this demand will attract to the industry in Ireland, as it has done elsewhere, a cohort of suppliers willing to meet it.
- 3.5 It is the view of the Department of Justice and Equality that such providers act as little more than visa factories, willing to engage in outright falsification of attendance records. In some other cases, the businesses may aspire to deliver education outcomes while still substantially relying on the opportunities generated by operating an "immigration franchise".
- 3.6 The Task Force identified a number of common characteristics among the providers of concern:
 - They primarily target non-EEA students, including a significant number of students from non-visa required countries, and enrolled very few Irish or EEA students. In most (though not all) high-quality Irish providers, the majority of students usually come from within the EEA.

- While fees charged varied between students, it was clear that in some cases the fees were unsustainably low and, given sectoral norms, were clearly inadequate to provide for the delivery of a high-quality programme.
- They do not offer Irish-accredited or quality assured programmes. The providers of concern will typically offer language programmes accredited by international bodies, vocational/management programmes whose awards are by overseas bodies or degree programmes that are franchised by UK universities. There are concerns regarding the level of oversight being exercised by awarding bodies in relation to such provision in Ireland.
- Sufficient learner protection arrangements are not in place. A financial model that requires constant recruitment at low prices in order to fund the continuous operation of the provider leaves the students vulnerable to any shocks the provider may experience. This is over and above the possibility that at any time the proprietors may seek to withdraw funds from the business on the basis of loans between related companies or through payments to directors, and go into voluntary liquidation.

3.7 A further significant issue in the area of academic programmes in particular is the lack of educational outcomes. The logic of permitting a student to come to Ireland and undertake an academic programme is that they should be pursuing a qualification and sitting the examinations set as part of the programme. However, in the lower quality sector, student bodies tend to exhibit poor academic progression: many students never pass an exam, others never even sit one. These trends are particularly evident in overseas accredited programmes at higher and further level. In some cases it is clear that admission procedures have no regard to the student's academic record or potential and that this is mutually acceptable to the provider and the student.

3.8 Attendance management will frequently lack credibility and while the class teacher may diligently record attendance this does not in any sense guarantee that non-attendance is being accurately recorded centrally or reported to the authorities.

3.9 There is also evidence that such providers have sought to ramp up international student recruitment when it appears that they may be in danger of closing down, thus presenting a substantial risk to their overall student bodies.

4. NEW REGULATORY FRAMEWORK

- 4.1 The activities and practices outlined above are entirely contrary to Ireland's international education strategy and have a range of serious negative consequences. They damage Ireland's international reputation among prospective students and their families, as well as among overseas education providers, funding agencies and partner Governments. They potentially put international students in a vulnerable position, and do not provide them with an education of long-term value. They harm the activities of high-quality providers by damaging the Irish brand. By facilitating economic migration, they undermine the integrity of the Irish labour market and potentially take employment opportunities away from Irish and EU jobseekers.
- 4.2 The statutory International Education Mark, as a supplement to mainstream quality assurance will be a crucial tool in addressing international students. However, it will only operate effectively in the context of a robust regulatory environment. In this context, the Government has decided that it is in the public interest to take immediate action to further reform and strengthen the regulation of the international education sector.

Three pillars of the new regulatory framework

- 4.3 Three pillars of reform are proposed: (i) a new list of eligible programmes, (ii) an enhanced inspection and compliance regime and (iii) changes to the operation of the work concession.
- 4.4 It is important to note that any regulatory changes regarding non-EEA students will in no way restrict the provider from continuing to teach Irish and EEA students. Providers will also be permitted to teach out their existing non-EEA students and indeed would be contractually obliged to supply the service in respect of which they have been paid.

Pillar One: A more restrictive set of programmes will be permitted for student immigration purposes

- 4.5 A more restrictive set of programmes will be permitted for the purposes of student immigration. The current Internationalisation Register will be replaced by an **Interim List of Eligible Programmes for Student Immigration Permission (ILEP) from 1 January 2015**. The ILEP will remain in place until the IEM is fully rolled out and a successor list is established, likely to be in 2016.

4.6 Eligibility for inclusion on the list will have regard to the following considerations:

- Programme accreditation: Only programmes which are accredited or recognised by Irish awarding bodies in the English language and higher education sectors will be permitted, with certain specified exceptions (see below). This is in line with the strategic priorities identified under the International Education Strategy and with current overseas promotion of education services by Irish State bodies.

The following types of programmes will be eligible for inclusion on the ILEP:

- Higher education programmes leading to major awards at NFQ 6 and above which are made by statutory Irish awarding bodies;
 - Higher education programmes leading to non-major awards at NFQ 6 and above which are made by statutory Irish awarding bodies and which have an associated workload of at least 60 ECTS credits per year;
 - ACELS/QQI-recognised English language provision, with duration requirements attached;
 - Foundation programmes of at least one year in duration which are linked to entry to specified Irish higher education institutions and which lead to awards of statutory Irish awarding bodies or are recognised by ACELS;
 - ACCA professional accountancy programmes at providers that have been designated as Platinum Providers;
 - On a transitional basis, until 1 January 2016, overseas Bachelors and Masters Degree Programmes currently listed on the IR where providers are able to demonstrate a track record of high-quality delivery and strong oversight by the relevant accrediting body. This special provision will allow providers the opportunity to apply for Irish accreditation, where they wish to continue recruitment of non-EEA learners on those programmes. The criteria and application process for temporary retention of such programmes will be published by the middle of September 2014.
- Immigration compliance: In addition to meeting the criteria outlined above, INIS must be satisfied with the operation of the provider from an immigration perspective. Consideration of immigration compliance and track record will include

the past conduct of personnel involved in the ownership and management of the provider. INIS will not permit any programmes from a provider to be placed on the new list unless it is fully satisfied that the owner, directors, managers and administrators of the provider in question are entirely above board as regards their past immigration conduct as well as the financial probity of previous ventures with which they have been associated, so far as that is known. The Irish authorities will also consult their colleagues in the UK and other jurisdictions where necessary.

- Track record: A key aspect of the future regulatory environment will be a policy of “education first”. As the industry is currently set up a provider can seek to offer programmes to non-EEA students from day one. Before being permitted to bring in non-EEA students the provider should be able to demonstrate that they have operated successfully as a quality educational provider to Irish or EU students.
- International Education Mark. Once it is introduced, only providers authorised to use the International Education Mark will be eligible to have programmes considered for inclusion in the ILEP.

4.7 Where a provider is sold as a going concern it will have to satisfy the authorities that it should retain its programmes on the ILEP; in reaching a decision, the track record of the new owners, both nationally and internationally, will be considered. This is to avoid the possibility that individuals involved in rogue providers would seek to acquire respectable providers as cover for their activities. As part of this process the new owners will be required to disclose all beneficial interests in other providers involved in the provision of educational services in Ireland.

4.8 In respect of programmes that are currently on the IR, but will be removed with effect from 1 January 2015, providers will be permitted to recruit new students who will commence their studies prior to the cut-off date. Such students will have to be in Ireland before 1 January 2015 and have registered before that date with the immigration authorities.

4.9 Persons seeking to register with the Immigration Authorities after 1 January 2015 in respect of a programme that has been removed from the register will not be permitted to do so.

4.10 A detailed set of questions and answers for students, providers and agents will be published on the websites of the Taskforce and INIS.

Pillar Two: An enhanced inspection and compliance regime will be introduced

4.12 A strengthened and more integrated inspection regime will be put in place to monitor ongoing quality assurance and immigration compliance. This will include:

- An enhanced inspection function for INIS and GNIB whose responsibilities would be to check that attendance management systems are robust and verifiable and that students are complying with the terms of their permission. The immigration authorities will carry out unannounced inspections as they consider necessary.
- The inspection regime for providers and the immigration aspects of their operations will be linked to a wider compliance oversight involving contacts with Revenue as regards tax compliance of the providers, NERA in the area of potential for abuse of the student work concession and the Department of Social Protection where necessary;
- Monitoring and periodic review as part of the International Education Mark regime.
- Continued monitoring by QQI of private providers for which it makes higher education awards.

4.13 Funding models for an enhanced inspection regime will be examined. Options could include per capita contributions or a charge per programme on the ILEP or its successor. The potential for a co-ordinated single charge covering all international promotion, marketing and inspection costs will also be examined. Consultation will take place with the sector on models under consideration.

4.14 To consider these issues, a compliance working group will be established, focusing on the operation of providers and the Student Work Concession. This working group will consist of the Departments of Justice and Equality and Education and Skills and QQI as well as other relevant State bodies and provider representative bodies with an interest in the operation of the non-EEA student sector.

Pillar Three: The terms of the Student Work Concession will be strengthened

4.15 Non-EEA students attending a full-time programme on the Internationalisation Register are currently permitted to work up to 20 hours per week during term and up to 40 hours per week outside of term. Concerns have been raised regarding the manner in which this concession was operating. While it is accepted that permission

to work in some shape or form is the norm in countries seeking to attract overseas students, it cannot be justified in all circumstances. Specifically it cannot be justified in respect of the sort of providers and programmes highlighted in this document, characterised by low fees, poor educational outcomes and vulnerability to immigration abuse.

- 4.16 The concession will be retained in respect of programmes on the ILEP and its successor. However the concession will be reviewed periodically as the reforms outlined in this Policy Statement bed down.
- 4.17 One reform that has been identified as necessary is to standardise the manner in which the concession operates. At present, eligibility to work 40 hours per week (during the holidays) is dependent on the programme timetable which is determined by the provider. This makes monitoring by the State authorities more difficult and is open to abuse.
- 4.18 From 1 January 2015, it is therefore intended to align the work concession with the traditional academic year and to allow students to work 40 hours per week only during the months of May, June, July and August and from 15 December to 15 January inclusive. This will be irrespective of their programme timetable but provided that they have immigration permission at that time.
- 4.19 It is also proposed, following a consultation process, to issue further guidelines covering other elements of the work concession, including au pair work, restrictions on the type of work in which students can engage and employment of students in a marketing capacity by their provider.

Other regulatory issues under consideration

- 4.20 It is intended to publish further guidelines in respect of a number of other issues related to the regulatory environment for international education including:
- The viability of separate accounts for student funds (e.g. fees) pending decisions on visas;
 - The financial requirements for new students coming to Ireland;
 - Issues relating to specialised professional training. There are in existence a small number of highly specialised training companies in Ireland who provide full-time training programmes for a number of weeks or months to key employees of overseas companies in various industries. INIS will deal with such cases in future

through the medium of its Atypical Workers Scheme on a case by case basis. Providers will have to demonstrate their track record in the specialised industry as a corporate trainer over a number of years before being considered eligible to bring in overseas trainees. Operating as a provider on the Internationalisation Register will not be regarded as sufficient demonstration of a track record. Trainers must of course also have no adverse history as regards immigration or financial practice.