



Migration (Health Services) Charge Act 1991

No. 197, 1991

Compilation No. 5

Compilation date:	10 December 2015
Includes amendments up to:	Act No. 145, 2015
Registered:	28 January 2016

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Migration (Health Services) Charge Act 1991* that shows the text of the law as amended and in force on 10 December 2015 (the **compilation date**).

This compilation was prepared on 19 January 2016.

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to impose on persons a charge on the granting of certain visas and entry permits

1 Short title

This Act may be cited as the *Migration (Health Services) Charge Act 1991*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Interpretation

- (1) In this Act, unless the contrary intention appears:

charge means an amount payable under section 6.

entry permit has the same meaning as in the *Migration Act 1958* as in force immediately before 1 September 1994.

index number means, in relation to a quarter, the All Group Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

relevant year means the period of 12 months commencing on 21 August 1992, and each subsequent period of 12 months.

- (2) In this Act, unless the contrary intention appears, an expression defined for the purposes of the *Migration Act 1958* has the same meaning as in that Act.

4 Act to extend to certain Territories

This Act extends to:

- (a) the Coral Sea Islands Territory; and
- (b) the Territory of Cocos (Keeling) Islands; and

(c) the Territory of Christmas Island;
and, for the purposes of this Act, those Territories are taken to be part of Australia.

5 Imposition of charge

- (1) Charge is payable if a person has applied on or after 21 August 1991 and before the commencement of the *Migration (Visa Application) Charge Act 1997* for a visa or entry permit, and:
- (a) if the visa or entry permit has been granted before the commencement of this Act—regulations made under paragraph 181(1)(h) of the *Migration Act 1958* required that an assurance of support be given in relation to the applicant in respect of the applicant seeking to enter, or remain in, Australia; or
 - (b) if the visa or entry permit has been, or is, granted before 1 September 1994:
 - (i) regulations made under paragraph 181(1)(h) of the *Migration Act 1958* require that an assurance of support be given in relation to the applicant in respect of the applicant seeking to enter, or remain in, Australia; and
 - (ii) the Minister has given the applicant a notice including a statement of a kind mentioned in paragraph 24(3)(aa) of that Act or a notice under paragraph 34(3)(a) of that Act; and
 - (iii) the applicant would, apart from subsection 24(3B) or 34(3B) of that Act, be granted the visa or entry permit; or
 - (c) in any other case:
 - (i) regulations made under paragraph 181(1)(h) of the *Migration Act 1958* require that an assurance of support be given in relation to the applicant in respect of the applicant seeking to enter, or remain in, Australia; and
 - (ii) the Minister has given the applicant a notice including a statement of the kind mentioned in subsection 26ZEA(2) of that Act; and

- (iii) the applicant would, apart from subparagraph 26ZF(1)(iv) of that Act, be granted a visa.
- (2) For the purposes of subsection (1), regulations are not taken to have required, or to require, that an assurance of support be given if they only require an assurance to be given in cases where the Minister so decides.
- (3) The charge is payable by:
 - (a) the applicant; or
 - (b) any person who gives an assurance of support of the kind mentioned in subsection (1).

6 Amount of charge

- (1) Subject to this section, the amount of the charge payable is \$822.
- (2) If the factor ascertained under subsection (3) in relation to a relevant year is greater than one, this Act has effect as if for the amount of the charge there were substituted, on the first day of that relevant year, an amount calculated by:
 - (a) multiplying by that factor:
 - (i) if subparagraph (ii) does not apply—\$822; or
 - (ii) if, because of any other application of this section, this Act has effect as if another amount were substituted for the amount of the charge—the substituted amount; and
 - (b) if the product of that multiplication is an amount of dollars and cents—rounding the product to the nearest dollar (rounding 50 cents upwards).
- (3) The factor for a relevant year is the number (calculated to 3 decimal places) worked out by dividing the index number for the March quarter immediately preceding that relevant year by the index number for the March quarter immediately preceding that first-mentioned March quarter.
- (4) If the factor worked out under subsection (3) in relation to a relevant year would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor worked out under that

subsection in relation to that relevant year is taken to be the factor calculated to 3 decimal places under that subsection and increased by 0.001.

- (5) Subject to subsection (6), if at any time, whether before or after the commencement of this Act, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.
- (6) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, for the purposes of the application of this section after the change, regard is to be had only to the index numbers published in terms of the new index reference period.

7 Exemptions from charge

- (1) A person is exempt from payment of the charge in relation to an entry permit if:
 - (a) the person has been granted a visa under section 24 of the *Migration Act 1958*; and
 - (b) the entry permit is of the same class as the visa and is granted on the basis of the person holding the visa.
- (2) A person who has applied for a visa or an entry permit is exempt from payment of the charge if the person withdraws the application or the Minister refuses to grant the entry permit or visa.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

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A = Act	o = order(s)
ad = added or inserted	Ord = Ordinance
am = amended	orig = original
amdt = amendment	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous
Ch = Chapter(s)	(prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	Reg = Regulation/Regulations
Div = Division(s)	reloc = relocated
exp = expires/expired or ceases/ceased to have effect	renum = renumbered
F = Federal Register of Legislative Instruments	rep = repealed
gaz = gazette	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)/subsection(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
(md) = misdescribed amendment can be given effect	Sdiv = Subdivision(s)
(md not incorp) = misdescribed amendment cannot be given effect	SLI = Select Legislative Instrument
mod = modified/modification	SR = Statutory Rules
No. = Number(s)	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Migration (Health Services) Charge Act 1991	197, 1991	18 Dec 1991	18 Dec 1991 (s 2)	
Migration Legislation Amendment Act 1994	60, 1994	9 Apr 1994	s 85: 1 Sept 1994 (s 2(3))	—
Migration Legislation Amendment Act (No. 1) 1997	27, 1997	10 Apr 1997	Sch 1 (items 28—30): 1 May 1997 (s 2(1))	Sch 1 (items 29, 30)
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 4 (item 29): 10 Dec 2015 (s 2(1) item 7)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 3	am No 60, 1994
s 5	am No 60, 1994; No 27, 1997
s 6	am No 145, 2015
s 7	am No 60, 1994