



Immigration (Education) Charge Act 1992

No. 177, 1992 as amended

Compilation start date: 1 July 2014

Includes amendments up to: Act No. 62, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Immigration (Education) Charge Act 1992* as in force on 1 July 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 11 August 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

Application, saving and transitional provisions for provisions and amendments

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

Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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An Act to impose a charge on applications for certain visas and entry permits by certain persons needing instruction in the English language

1 Short title

This Act may be cited as the *Immigration (Education) Charge Act 1992*.

2 Commencement

This Act commences on 1 March 1993.

3 Interpretation

- (1) 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.

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

English Education Charge means the charge imposed by section 5.

exempt entry permit means:

- (a) an entry permit, a criterion for the grant of which is that the Minister is satisfied that:
 - (i) permanent settlement in Australia is the appropriate course for the applicant; and
 - (ii) such settlement would not be contrary to the interests of Australia; or
- (b) an entry permit applied for by a person on the ground that he or she is the spouse, dependent child or aged parent of:
 - (i) an Australian citizen; or
 - (ii) a permanent resident; or
- (c) an entry permit prescribed for the purposes of this definition.

exempt visa means:

- (a) a visa, a criterion for the grant of which is that the Minister is satisfied that:
 - (i) permanent settlement in Australia is the appropriate course for the applicant; and
 - (ii) such settlement would not be contrary to the interests of Australia; or
- (b) a visa applied for by a person on the ground that he or she is the spouse, dependent child or aged parent of:
 - (i) an Australian citizen; or
 - (ii) a permanent resident; or
- (c) a visa prescribed for the purposes of this definition.

Finance Department means the Department administered by the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

permanent resident means a person who is usually resident in Australia and whose continued lawful presence in Australia is not subject to a limitation as to time imposed by law.

stay visa means:

- (a) a permanent entry permit within the meaning of the *Migration Act 1958* as in force immediately before 1 September 1994; or
- (b) a permanent visa.

4 Act to extend to certain Territories

This Act extends to the Territories to which the *Migration Act 1958* extends.

5 Imposition of English Education Charge

English Education Charge is imposed in respect of an application by a non-citizen if:

- (a) the application is for a stay visa and is made on or after 1 January 1993 and before the commencement of the *Migration (Visa Application) Charge Act 1997*; and

- (aa) any visa application fee payable in relation to the application has been paid before the commencement of the *Migration (Visa Application) Charge Act 1997*; and
- (b) the Minister has given the applicant a notice including:
 - (i) a statement of the kind mentioned in paragraph 24(3)(ab) of the *Migration Act 1958* as in force immediately before 1 September 1994 or a notice under paragraph 24(6)(aa) or 34(3)(aa) of that Act as in force at that time; or
 - (ii) a notice including a statement of the kind mentioned in subsection 26ZEA(3) of the *Migration Act 1958*; and
- (c) the applicant is not exempt from the charge in respect of the application because of section 7.

6 Amount of English Education Charge

- (1) Subject to this section, the amount of English Education Charge in respect of an application is the amount, not exceeding the applicable charge limit, prescribed in relation to the class of applicants of which the applicant is a member.
- (2) The ***applicable charge limit*** in relation to an application made during a financial year starting on or after 1 July 1995 is, subject to subsection (3), the amount worked out under the formula:

$$\frac{\text{new CGFCE number}}{\text{base CGFCE number}} \times \$4,280$$

where:

new CGFCE number means the number worked out as follows:

- (a) take the first set of Commonwealth Government Final Consumption Expenditure Implicit Price Deflators to be issued by the Finance Department after 1 January in the previous financial year;
- (b) find the number that relates to the period ending on 31 December in the previous financial year;
- (c) that number is the new CGFCE number.

base CGFCE number means the number worked out as follows:

- (a) take the first set of Commonwealth Government Final Consumption Expenditure Implicit Price Deflators to be issued by the Finance Department after 1 January in the previous financial year;
 - (b) find the number that relates to the period ending on 31 December 1993;
 - (c) that number is the base CGFCE number.
- (3) If an amount worked out under the formula in subsection (2) is not a multiple of \$5, the amount is to be rounded as follows:
 - (a) if the amount exceeds the nearest lower multiple of \$5 by \$2.50 or more—round the amount up to the nearest higher multiple of \$5;
 - (b) in any other case—round the amount down to the nearest lower multiple of \$5.

7 Exemptions from English Education Charge

- (1) English Education Charge is not payable:
 - (a) in respect of an application for an exempt visa; or
 - (b) in respect of an application for an exempt entry permit.
- (2) English Education Charge is not payable:
 - (a) in respect of an application if the applicant withdraws the application before the charge is paid; or
 - (b) in respect of an application by a person who has previously paid the charge in respect of another application for a visa or entry permit and has not received a refund of the payment; or
 - (c) in respect of an application by a person who is a permanent resident at the time of the application.

8 Applicant to pay charge

English Education Charge in respect of an application is payable by the applicant.

9 Delegation

The Minister may, by signed instrument, delegate any or all of his or her powers under this Act to an officer of the Department.

10 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted to be prescribed by this Act; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history
Endnote 5—Uncommenced amendments
Endnote 6—Modifications
Endnote 7—Misdescribed amendments
Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

Abbreviation key—Endnote 2

The abbreviation key in this endnote 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 the compiled law. The information includes commencement information for amending laws and details of 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 level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

Modifications—Endnote 6

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

Misdescribed amendments—Endnote 7

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

Miscellaneous—Endnote 8

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Immigration (Education) Charge Act 1992	177, 1992	16 Dec 1992	1 Mar 1993 (s 2)	
Migration Legislation Amendment Act 1994	60, 1994	9 Apr 1994	Sch 3 (items 47, 48): 1 Sept 1994 (s 2(3))	—
Immigration (Education) Charge Amendment Act 1995	113, 1995	29 Sept 1995	1 Nov 1995 (s 2(1) and <i>Gazette</i> 1995, No GN43)	s 3(2)
Migration Legislation Amendment Act (No. 1) 1997	27, 1997	10 Apr 1997	Sch 1 (items 18, 19, 29, 30): 1 May 1997 (s 2(1) and <i>Gazette</i> 1997, No S168)	Sch 1 (items 29, 30)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 6 (items 48–50): 19 Apr 2011 (s 2(1) item 15)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 9 (item 161) and Sch 14 (items 1–4): 1 July 2014 (s 2(1) items 6, 14)	Sch 14 (items 1–4)

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 3	am No 60, 1994; No 5, 2011; No 62, 2014
s 5	am No 60, 1994; No 27, 1997
s 6	am No 113, 1995; No 5, 2011

Endnote 5—Uncommenced amendments [none]

Endnote 5—Uncommenced amendments [none]

Endnote 6—Modifications [none]

Endnote 7—Misdescribed amendments [none]

Endnote 8—Miscellaneous [none]