



Immigration (Education) Charge Act 1992

No. 177 of 1992

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

[Assented to 16 December 1992]

The Parliament of Australia enacts:

Short title

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

Commencement

2. This Act commences on 1 March 1993.

Interpretation

3.(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;

“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; or
- (b) a visa that enables a person, after having entered Australia in accordance with the visa, to remain permanently in Australia.

Act to extend to certain Territories

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

Imposition of English Education Charge

5. 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
- (b) the Minister has given the applicant a notice including a statement of the kind mentioned in paragraph 24(3)(ab) of the

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Migration Act 1958 or a notice under paragraph 24(6)(aa) or 34(3)(aa) of that Act; and

- (c) the applicant is not exempt from the charge in respect of the application because of section 7.

Amount of English Education Charge

6. Subject to this section, the amount of English Education Charge in respect of an application is the amount, not exceeding \$4,080, prescribed in relation to the class of applicants of which the applicant is a member.

Exemptions from English Education Charge

7.(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.

Applicant to pay charge

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

Delegation

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

Regulations

10. 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.

[Minister's second reading speech made in—
House of Representatives on 4 November 1992
Senate on 24 November 1992]