



# **Education Services for Overseas Students (Registration Charges) Act 1997**

**No. 18, 1997**

## **Compilation No. 11**

|                                   |                   |
|-----------------------------------|-------------------|
| <b>Compilation date:</b>          | 1 July 2016       |
| <b>Includes amendments up to:</b> | Act No. 172, 2015 |
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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Education Services for Overseas Students (Registration Charges) Act 1997* that shows the text of the law as amended and in force on 1 July 2016 (the *compilation date*).

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 the Legislation Register ([www.legislation.gov.au](http://www.legislation.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 the Legislation Register 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.

### Editorial changes

For more information about any editorial changes made in this compilation, see 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 the Legislation Register 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 registration charges in relation to the Commonwealth Register of Institutions and Courses for Overseas Students**

## **1 Short title**

This Act may be cited as the *Education Services for Overseas Students (Registration Charges) Act 1997*.

## **2 Commencement**

This Act commences on the day on which the *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Act (No. 1) 1997* commences.

## **3 Crown to be bound**

This Act binds the Crown in each of its capacities.

## **4 Interpretation**

An expression used in this Act that is also used in the *Education Services for Overseas Students Act 2000* has the same meaning as in that Act, unless the contrary intention appears.

## **5 Annual registration charge**

- (1) A provider who is a registered provider on 1 January of a year is liable to pay an annual registration charge for the year.

Note: This section extends to a registered provider whose registration has been suspended.

### *Amount of the charge*

- (2) The amount of the charge for the provider for the year (the **charge year**) is the sum of the following components:
- (a) \$1,300;

- (b) \$10 multiplied by the total enrolments for the provider in the previous year;
- (c) \$100 multiplied by the total number of courses for which the provider is registered on 1 January of the charge year;
- (d) if the Minister has taken action against the provider under section 83 of the *Education Services for Overseas Students Act 2000* in the previous year—\$1,000.

Note 1: The dollar amounts are indexed under section 7.

Note 2: Regulations made under subsection (7) of this section may provide for lower dollar amounts and exemptions.

*Total enrolments*

- (3) The **total enrolments** for a provider in a year is worked out by adding together the number of enrolments of overseas students for each course for which the provider is registered in the year.
- (4) When working out the enrolments for a course for a year:
  - (a) for a course of at least 26 weeks duration—each student who is enrolled in the course at any time during the year counts as one enrolment; and
  - (b) for a course of 13 or more weeks, but less than 26 weeks, duration—each student who is enrolled in the course at any time during the year counts as 0.5 of an enrolment; and
  - (c) for a course of less than 13 weeks duration—each student who is enrolled in the course at any time during the year counts as 0.25 of an enrolment.

*Working out what constitutes a course*

- (5) For the purposes of this section, a course that spans 2 or more years is taken to be a separate course in each of those years.
- (6) For the purposes of this section, a course is taken to be a separate course at each location at which the provider is registered to provide the course.

*Regulations*

- (7) The regulations may prescribe any one or more of the following:
- (a) a lower dollar amount for the purposes of paragraph (2)(a);
  - (b) one or more classes of providers who may pay the lower dollar amount prescribed under paragraph (a) of this subsection;
  - (c) one or more classes of providers who are exempt from the requirement to pay:
    - (i) the annual registration charge entirely; or
    - (ii) one or more components of the charge listed in paragraph (2)(a), (b) or (c).
- (8) Regulations made under subsection (7) must be expressed to apply to the first calendar year beginning after the regulations are made and all later calendar years.

**6 Entry to market charges**

- (1) If:
- (a) a provider applies under section 9 of the *Education Services for Overseas Students Act 2000* (the **ESOS Act**) to be registered to provide a course at a location to overseas students; and
  - (b) the provider meets the registration requirements (disregarding paragraph 11(g)(i) of the ESOS Act); and
  - (c) at the time the provider meets those requirements, the provider is not registered under the ESOS Act to provide any course at any location; and
  - (d) the provider is not included in a class of providers that is prescribed by the regulations to be exempt from the requirement to pay the entry to market charges imposed by section 8 of this Act;
- the provider is liable to pay 3 entry to market charges in accordance with this section.

*First entry to market charge*

- (2) The amount of the first entry to market charge is \$7,998.

Note: This amount is indexed under section 7.

- (3) The first entry to market charge is payable before the provider is registered (the ***first registration***) to provide the course at the location.

*Second entry to market charge*

- (4) The amount of the second entry to market charge is \$5,332.

Note: This amount is indexed under section 7.

- (5) If the provider is still registered to provide the course at the location on the first anniversary day, the second entry to market charge is payable by the end of that day.

*Third entry to market charge*

- (6) The amount of the third entry to market charge is \$2,666.

Note: This amount is indexed under section 7.

- (7) If the provider is still registered to provide the course at the location on the second anniversary day, the third entry to market charge is payable by the end of that day.

*When a provider is taken to be still registered*

- (8) If:
- (a) the provider's first registration is renewed, continued or extended under the ESOS Act for a period; and
  - (b) the first anniversary day or second anniversary day falls within that period;
- the provider is taken, for the purposes of this section, to be still registered to provide the course at the location on that day.



*Exemption*

- (9) The regulations may prescribe one or more classes of provider that are exempt from the requirement to pay the entry to market charges imposed by section 8.

*Definitions*

- (10) In this section:

***first anniversary day*** means the first anniversary of the day on which the period of the provider's first registration started.

***second anniversary day*** means the second anniversary of the day on which the period of the provider's first registration started.

## 7 Indexation of amounts

*Application of section*

- (1) This section applies for the purpose of working out the amount of an entry to market charge for a year (the ***current year***) after the initial year.
- (1A) This section also applies for the purpose of working out the amount of annual registration charge for any year (also called the ***current year***) after the initial year, unless that year is the first year to which regulations made under paragraph 5(7)(a) apply.

Note: The reason for the exception is that the possibility of indexation for that year can be taken into account in making the regulations, so there is no need for this section to apply as well.

*Indexation formula*

- (2) The dollar amounts specified in subsection 5(2), in regulations made under paragraph 5(7)(a), or in subsection 6(2), (4) or (6), are to be adjusted for the current year by multiplying the amounts that applied to the year before the current year by the indexation factor worked out using the formula:

$$\frac{\text{Index number for the recent September quarter}}{\text{Index number for the previous September quarter}}$$

where:

***index number***, for a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician for that quarter.

***recent September quarter*** means the September quarter in the year before the current year.

***previous September quarter*** means the September quarter before the recent September quarter.

*Rounding factors and amounts*

- (3) The indexation factor worked out under subsection (2) must be rounded up or down to 3 places (rounding up in the case of exactly halfway between).
- (4) Amounts worked out under subsection (2) must be rounded to the nearest whole dollar (rounding up in the case of 50 cents).

*Changes to CPI*

- (5) 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 applying this section after the change, only index numbers published in terms of the new index reference period are to be used.

*Definition*

- (6) In this section:

***initial year*** means:

- (a) in relation to the annual registration charge—the first calendar year in which the dollar amounts specified in subsection 5(2) are imposed under section 8; or
- (b) in relation to an entry to market charge—the year 2015.

## **8 Imposition of charges**

The annual registration charge and the entry to market charges are imposed by this section.

## **9 Regulations**

The Governor-General may make regulations prescribing matters:

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

## Endnotes

Endnote 1—About the endnotes

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## 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

### 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.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### 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

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Endnote 1—About the endnotes

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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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#### Endnote 2—Abbreviation key

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

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

| <b>Act</b>  | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>  | <b>Application, saving and transitional provisions</b> |
|---|------------------------|---------------|--|--|
| Education Services for Overseas Students (Registration Charges) Act 1997                                      | 18, 1997               | 27 Mar 1997   | 24 Apr 1997 (s 2)  |  |
| Education Services for Overseas Students (Consequential and Transitional) Act 2000                            | 166, 2000              | 21 Dec 2000   | Sch 1 (item 2) and Sch 2: 4 June 2001 (s 2(4) and gaz 2001, No S175) | Sch 2  |
| Education Services for Overseas Students (Registration Charges) Amendment Act 2000                            | 167, 2000              | 21 Dec 2000   | 21 Dec 2000 (s 2)  | Sch 1 (item 11)  |
| Education Services for Overseas Students (Registration Charges) Amendment Act 2003                            | 89, 2003               | 23 Sept 2003  | 23 Sept 2003 (s 2)   | s 4  |
| Education Services for Overseas Students Legislation Amendment (2006 Measures No. 1) Act 2006                 | 143, 2006              | 6 Dec 2006    | Sch 1 (items 36, 37(1)): 1 Jan 2007 (s 2)                            | Sch 1 (item 37(1))                                     |
| Education Services for Overseas Students Amendment (Re-registration of Providers and Other Measures) Act 2010 | 10, 2010               | 3 Mar 2010    | Sch 1 (items 27–30): 3 Mar 2010 (s 2)                                | —  |
| Education Services for Overseas Students (Registration Charges) Amendment Act 2011                            | 105, 2011              | 26 Sept 2011  | 31 Oct 2011 (s 2(1) items 1, 2)                                      | Sch 1 (item 14)  |

*Education Services for Overseas Students (Registration Charges) Act 1997*

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Compilation No. 11

Compilation date: 1/7/16

Registered: 11/7/16

## Endnotes

### Endnote 3—Legislation history

| <b>Act</b>  | <b>Number and year</b> | <b>Assent</b> | <b>Commencement</b>  | <b>Application, saving and transitional provisions</b> |
|---|------------------------|---------------|--|--|
| <b>as amended by</b>  |                        |               |  |  |
| Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012 | 9, 2012                | 20 Mar 2012   | Sch 2 (item 88): 1 July 2012 (s 2(1) item 6, 8)                              | —  |
| Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Act 2012         | 10, 2012               | 20 Mar 2012   | Sch 1: 1 July 2012 (s 2(1) item 2)<br>Remainder: 20 Mar 2012 (s 2(1) item 1) | —  |
| Statute Law Revision Act (No. 2) 2015   | 145, 2015              | 12 Nov 2015   | Sch 4 (item 9): 10 Dec 2015 (s 2(1) item 7)                                  | —  |
| Education Services for Overseas Students (Registration Charges) Amendment (Streamlining Regulation) Act 2015            | 172, 2015              | 11 Dec 2015   | Sch 1 (items 1-3): 1 July 2016 (s 2(1) item 2)                               | Sch 1 (items 4, 5)                                     |



## Endnote 4—Amendment history

**Endnote 4—Amendment history**

| <b>Provision affected</b> | <b>How affected</b>  |
|---------------------------|--|
| s 4 .....                 | am No 166, 2000  |
| s 5 .....                 | am No 167, 2000; No 89, 2003; No 105, 2011; No 10, 2012; No 105, 2011                |
| s 5A .....                | ad No 167, 2000<br>am No 89, 2003<br>rep No 105, 2011                                |
| s 6 .....                 | am No 143, 2006; No 10, 2010<br>rs No 105, 2011<br>am No 10, 2012<br>rs No 172, 2015 |
| s 7 .....                 | am No 167, 2000; No 89, 2003; No 105, 2011; No 145, 2015; No 172, 2015               |
| s 8 .....                 | am No 105, 2011  |
| s 9 .....                 | rs No 105, 2011  |