Migration Agents Registration Application Charge Act 1997

No. 203, 1997

Compilation No. 4

Compilation date:	15 October 2020
Includes amendments up to:	Act No. 72, 2020
Registered:	22 October 2020

About this compilation

This compilation

This is a compilation of the *Migration Agents Registration Application Charge Act 1997* that shows the text of the law as amended and in force on 15 October 2020 (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). 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

An Act to impose charge in relation to the registration of migration agents

Part 1—Preliminary

1 Short title

This Act may be cited as the *Migration Agents Registration Application Charge Act 1997*.

2 Commencement

This Act commences on 21 March 1998.

3 Definitions

In this Act:

begins: a registered migration agent *begins* to give immigration assistance otherwise than on a non-commercial basis on a day worked out in accordance with regulations made for the purposes of this definition.

charge limit for a registration application made in a financial year has the meaning given by section 7.

general charge means an amount of charge imposed by Part 2 that is prescribed by regulation, for the purposes of section 6, as the general charge.

immigration assistance has the same meaning as in Part 3 of the *Migration Act 1958*.

non-commercial application charge means an amount of charge imposed by Part 2 that is prescribed by regulation, for the purposes of section 6, as the non-commercial application charge.

non-commercial basis: a registered migration agent gives immigration assistance on a *non-commercial basis* if the assistance is given solely:

(a) on a non-commercial or non-profit basis; and

(b) as a member of, or a person associated with, an organisation that operates in Australia solely:

   (i) on a non-commercial or non-profit basis; and

   (ii) as a charity, or for the benefit of the Australian community.

   Note: *Charity* has the meaning given by Part 2 of the *Charities Act 2013* (see section 2B of the *Acts Interpretation Act 1901*).

registered migration agent has the same meaning as in Part 3 of the *Migration Act 1958*.

registration application has the same meaning as in Part 3 of the *Migration Act 1958*.

Part 2—Imposition of charge on registration applications

4 Imposition of charge

Charge is imposed on an individual's making of a registration application on or after 21 March 1998.

5 Who must pay charge?

Charge is payable by the individual making the registration application.

6 Amount of charge

(1) The amount of charge payable on an individual's making of a registration application is the amount prescribed by the regulations for an individual of that kind.

(2) The regulations may prescribe different amounts (including nil amounts) for different kinds of individuals making registration applications.

(3) The regulations must not prescribe an amount more than the charge limit for the registration application.

7 What is the *charge limit*?

(1) The *charge limit* for a registration application made in the financial year ending at the end of 30 June 2002 is $1,800.

(2) Work out the *charge limit* for a registration application made in a later financial year by:
   (a) multiplying the charge limit for the immediately preceding financial year by the greater of:

(i) the indexation factor worked out using the formula in subsection (3); and

(ii) 1.0; and

(b) rounding the product to the nearest multiple of $5 (rounding an odd multiple of $2.50 to the next higher multiple of $5).

(3) The formula for the indexation factor is:

$$\frac{\text{Sum of the index numbers for the CPI quarters in the 12 months ending on 31 December before the later financial year}}{\text{Sum of the index numbers for the CPI quarters in the 12 months ending on the previous 31 December}}$$

where:

CPI quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

index number means the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Statistician.

(4) The indexation factor is to be calculated to 3 decimal places, but increased by .001 if the 4th decimal place is more than 4.

(5) When working out the indexation factor:

(a) use only the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and

(b) disregard index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

8 Regulations

The Governor-General may make regulations for the purposes of section 6.

Part 3—Imposition of charge on basis of status of migration agent

10 Imposition of charge

Charge is imposed in respect of a registered migration agent:

(a) who paid the non-commercial application charge in relation to the agent's current period of registration; and

(b) who, during that period, begins to give immigration assistance otherwise than on a non-commercial basis.

11 Who must pay charge?

Charge is payable by the registered migration agent.

12 Amount of charge

Amount of charge

(1) The amount of charge payable by the registered migration agent is the amount worked out using the following formula:

$$\left(\text{Notional general charge} \times \frac{\text{Number of days in the remaining period}}{365} \right) - \left(\text{Paid non-commercial application charge} \times \frac{\text{Number of days in the remaining period}}{365} \right)$$

where:

notional general charge means the amount of general charge that would have been payable by the agent in relation to the agent's current period of registration if the non-commercial application charge had not been payable by the agent in relation to that period.

paid non-commercial application charge means the amount of non-commercial application charge paid by the agent in relation to the agent's current period of registration.

remaining period means the period that:

    (a) starts on the first day in the agent's current period of the registration on which the agent begins to give immigration assistance otherwise than on a non-commercial basis; and

    (b) ends on the last day of the agent's current period of registration.

Rounding

(2) If the amount worked out using the formula is not a number of whole dollars, it is to be rounded down to the nearest whole dollar.

13 Regulations

The Governor-General may make regulations for the purposes of this Part.

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

Endnotes

Endnote 1—About the endnotes

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.

Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Migration Agents Registration Application Charge Act 1997	203, 1997	17 Dec 1997	21 Mar 1998 (s 2)	
Migration Agents Registration Application Charge Amendment Act 2002	34, 2002	26 June 2002	26 June 2002 (s 2)	Sch 1 (items 2, 3)
Migration Agents Registration Application Charge Amendment Act 2004	31, 2004	5 Apr 2004	s 1–3: 5 Apr 2004 Sch 1: 1 July 2004 (s 2)	Sch 1 (item 6)
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 4 (item 28): 10 Dec 2015 (s 2(1) item 7)	—
Migration Agents Registration Application Charge Amendment (Rates of Charge) Act 2020	72, 2020	22 June 2020	Sch 1: 15 Oct 2020 (s 2(1) item 2)	Sch 1 (item 8)

Endnote 4—Amendment history

Provision affected	How affected
Title	am No 31, 2004
Part 1	
Part 1 heading	ad No 31, 2004
s 3	am No 31, 2004; No 72, 2020
Part 2	
Part 2 heading	ad No 31, 2004
	rs No 72, 2020
s 7	am No 34, 2002; No 145, 2015
Part 3	
Part 3 heading	rs No 72, 2020
Part 3	ad No 31, 2004
s 9	ad No 31, 2004
	rep No 72, 2020
s 10	ad No 31, 2004
	rs No 72, 2020
s 11	ad No 31, 2004
s 12	ad No 31, 2004
	am No 72, 2020
s 13	ad No 31, 2004