



Education Services for Overseas Students (Registration Charges) Amendment Act 2021

No. 84, 2021

**An Act to amend the *Education Services for
Overseas Students (Registration Charges) Act 1997*,
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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**An Act to amend the *Education Services for
Overseas Students (Registration Charges) Act 1997*,
and for related purposes**

[Assented to 27 August 2021]

The Parliament of Australia enacts:

No. 84, 2021

*Education Services for Overseas Students (Registration Charges)
Amendment Act 2021*

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1 Short title

This Act is the *Education Services for Overseas Students (Registration Charges) Amendment Act 2021*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	1 January 2022.	1 January 2022

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments

Education Services for Overseas Students (Registration Charges) Act 1997

1 After section 3

Insert:

3A Definitions

In this Act:

amount includes a nil amount.

CRICOS annual registration charge has the meaning given by subsection 5(2).

schools initial registration charge has the meaning given by subsection 6(2).

schools renewal registration charge has the meaning given by subsection 7(2).

year means calendar year.

2 Sections 5 to 8

Repeal the sections, substitute:

5 CRICOS annual registration charge

- (1) Charge is imposed on a provider for a year if the provider is a registered provider on 1 January of that year.
- (2) Charge imposed by subsection (1) is to be known as *CRICOS annual registration charge*.
- (3) CRICOS annual registration charge imposed on a provider for a year is payable by the provider.

Amount of charge

- (4) The amount of CRICOS annual registration charge imposed on a provider for a year is the amount:
 - (a) prescribed by the regulations for that year; or
 - (b) worked out for that year in accordance with a method prescribed by the regulations.
- (5) Without limiting paragraph (4)(b), the regulations may provide for the amount of CRICOS annual registration charge imposed on a provider for a year to be equal to the sum of such components as are prescribed by, or ascertained in accordance with, the regulations.
- (6) Before the Governor-General makes regulations for the purposes of subsection (4), the Minister must be satisfied that the effect of those regulations will be to recover no more than the Commonwealth's likely costs in connection with the Secretary's performance of functions, and exercise of powers, under the *Education Services for Overseas Students Act 2000*.
- (7) For the purposes of subsection (6), disregard the following:
 - (a) costs in connection with functions or powers covered by subsection 6(6) or 7(6);
 - (b) costs that are likely to be offset by reinstatement fees.
- (8) The regulations may provide for indexation of amounts specified in the regulations.

Exemption

- (9) The regulations may prescribe one or more classes of provider that are exempt from CRICOS annual registration charge.

6 Schools initial registration charge

- (1) If:
 - (a) a provider makes an application under section 9 of the *Education Services for Overseas Students Act 2000* for registration to provide a course or courses at a location or locations; and

- (b) the provider:
- (i) is an approved school provider when the application is made; and
 - (ii) meets the registration requirements (disregarding subparagraph 11(g)(i) of the *Education Services for Overseas Students Act 2000*); and
 - (iii) is not registered under the *Education Services for Overseas Students Act 2000* to provide any course at any location;
- charge is imposed on the application.
- (2) Charge imposed by subsection (1) is to be known as ***schools initial registration charge***.
- (3) Schools initial registration charge imposed on an application made by a provider is payable by the provider.

Amount of charge

- (4) The amount of schools initial registration charge imposed on an application is the amount:
- (a) prescribed by the regulations; or
 - (b) worked out in accordance with a method prescribed by the regulations.
- (5) Without limiting paragraph (4)(b), the regulations may provide for the amount of schools initial registration charge imposed on an application to be equal to the sum of such components as are prescribed by, or ascertained in accordance with, the regulations.
- (6) Before the Governor-General makes regulations for the purposes of subsection (4), the Minister must be satisfied that the effect of those regulations will be to recover no more than the Commonwealth's likely costs in connection with the Secretary's performance of functions, and exercise of powers, under:
- (a) Subdivision A of Division 3 of Part 2 of the *Education Services for Overseas Students Act 2000*; or
 - (b) section 11 of that Act, so far as that section relates to section 10 of that Act; or
 - (c) section 11A of that Act, so far as that section relates to an application made under section 9 of that Act; or

- (d) section 11B of that Act, so far as that section relates to an application made under section 9 of that Act; or
 - (e) subsection 11C(1) of that Act, so far as that subsection relates to a notice given under section 10A of that Act; or
 - (f) subsection 11C(2) of that Act; or
 - (g) section 14 of that Act;
- so far as those functions and powers relate to the Secretary's capacity as the ESOS agency for approved school providers.
- (7) The regulations may provide for indexation of amounts specified in the regulations.

Exemption

- (8) The regulations may prescribe one or more classes of provider that are exempt from schools initial registration charge.

7 Schools renewal registration charge

- (1) If:
- (a) a registered provider makes an application under section 10D of the *Education Services for Overseas Students Act 2000* for renewal of registration; and
 - (b) the registered provider:
 - (i) is an approved school provider when the application is made; and
 - (ii) meets the registration requirements (disregarding subparagraph 11(h)(ii) of the *Education Services for Overseas Students Act 2000*);
- charge is imposed on the application.
- (2) Charge imposed by subsection (1) is to be known as ***schools renewal registration charge***.
- (3) Schools renewal registration charge imposed on an application made by a registered provider is payable by the registered provider.

Amount of charge

- (4) The amount of schools renewal registration charge imposed on an application is the amount:
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- (a) prescribed by the regulations; or
 - (b) worked out in accordance with a method prescribed by the regulations.
- (5) Without limiting paragraph (4)(b), the regulations may provide for the amount of schools renewal registration charge imposed on an application to be equal to the sum of such components as are prescribed by, or ascertained in accordance with, the regulations.
- (6) Before the Governor-General makes regulations for the purposes of subsection (4), the Minister must be satisfied that the effect of those regulations will be to recover no more than the Commonwealth's likely costs in connection with the Secretary's performance of functions, and exercise of powers, under:
- (a) Subdivision C of Division 3 of Part 2 of the *Education Services for Overseas Students Act 2000*; or
 - (b) section 10L of that Act; or
 - (c) section 11 of that Act, so far as that section relates to section 10E of that Act; or
 - (d) section 11A of that Act, so far as that section relates to an application made under section 10D of that Act; or
 - (e) section 11B of that Act, so far as that section relates to an application made under section 10D of that Act; or
 - (f) subsection 11C(1) of that Act, so far as that subsection relates to a notice given under section 10G of that Act; or
 - (g) subsection 11C(3) of that Act, so far as that subsection relates to a matter set out in paragraph (b) or (d) of that subsection;
- so far as those functions and powers relate to the Secretary's capacity as the ESOS agency for approved school providers.
- (7) The regulations may provide for indexation of amounts specified in the regulations.

Exemption

- (8) The regulations may prescribe one or more classes of registered provider that are exempt from schools renewal registration charge.

8 Act does not impose tax on property of a State

- (1) This Act does not impose a tax on property of any kind belonging to a State.
- (2) For the purposes of this section, *property of any kind belonging to a State* has the same meaning as in section 114 of the Constitution.

Part 2—Transitional

3 Transitional—annual registration charge and entry to market charges

Despite the repeal of sections 5 to 8 of the *Education Services for Overseas Students (Registration Charges) Act 1997* by this Schedule, those sections continue to apply in relation to a charge that became due for payment before the commencement of this item, as if that repeal had not happened.

[*Minister's second reading speech made in—
House of Representatives on 24 June 2021
Senate on 10 August 2021*]

(79/21)

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