

Overseas Students Charge Act 1979

No. 119 of 1979

An Act to impose a charge on certain overseas students enrolling in certain tertiary education courses in Australia.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

- Short title** 1. This Act may be cited as the *Overseas Students Charge Act 1979*.¹
- Commencement** 2. This Act shall come into operation on the day on which it receives the Royal Assent.¹
- Collection Act to be read with this Act** 3. The *Overseas Students Charge Collection Act 1979* shall be read as one with this Act.
- Interpretation** 4. (1) In this Act, unless the contrary intention appears—
- “charge” means the charge imposed by this Act;
- “enrolment” means enrolment by way of original enrolment, continuing enrolment, re-enrolment or otherwise;
- “overseas student” means a person (including a person who has not attained the age of majority) who is an immigrant within the meaning of the *Migration Act 1958* and is enrolled or proposes to become enrolled in a prescribed course for a year, but does not include a person to whom sub-section 8 (1) of that Act applies or a person who is the holder of a permanent entry permit;
- “permanent entry permit” means an entry permit within the meaning of the *Migration Act 1958* other than a temporary entry permit;
- “prescribed course” means—
- (a) a course of study that is offered by a prescribed educational institution and entitles a person by whom it is duly completed to a degree, diploma or associate diploma awarded or issued by that institution;
 - (b) a course of study offered by a prescribed educational institution (other than a course for which the institution charges a fee the amount of which is, in the opinion of the Minister, equal to the whole or a substantial proportion of the cost of tuition in that course) the due completion of

which is, in appropriate cases, or in all cases, required by that or any other prescribed educational institution as a pre-requisite to the undertaking of a course referred to in paragraph (a); or

- (c) any other course of study that is offered by a prescribed educational institution and is declared by the regulations to be a prescribed course for the purposes of this paragraph;

“prescribed educational institution” means a university or college of advanced education within the meaning of the *Tertiary Education Commission Act 1977*;

“study” includes instruction, training and research;

“temporary entry permit” has the same meaning as in the *Migration Act 1958*;

“year” means any year commencing on 1 January.

(2) A reference in this Act to enrolment in a prescribed course for a year shall be read as a reference to enrolment that entitles the person enrolled to undertake, at any time in that year, that course or a part of that course.

(3) A reference in this Act to a part of a prescribed course shall be read as a reference to so much of that course as is to be undertaken in a year.

5. Where an overseas student is enrolled in a prescribed course for a year, then, subject to this Act, a charge is imposed on the student in respect of that enrolment. Imposition of charge

6. The amount of the charge imposed by this Act in respect of the enrolment of an overseas student in a prescribed course for a year is such amount, not exceeding \$2,500, as is applicable under the regulations to that enrolment. Rates of charge

7. (1) The charge is not payable in respect of the enrolment of an overseas student in a prescribed course for a year before 1 January 1980. Application

(2) Subject to sub-section (3), where an overseas student—

- (a) was enrolled in a prescribed course for a year before 1 January 1980;
- (b) commenced or commences to undertake that course in that year; and
- (c) was or is enrolled in that course for each succeeding year,

the charge is not payable in respect of his enrolment for any year in that course or any other prescribed course that, in accordance with the regulations, is to be treated for the purposes of this sub-section as being the same course as the first-mentioned course.

(3) For the purposes of sub-section (2), where, at any time (including a time before 1 January 1980)—

(a) the enrolment of a person in a prescribed course is or was interrupted by a period of deferment approved by the prescribed educational institution offering the course; and

(b) the enrolment is resumed in accordance with the terms of the approval as specified at the time of the giving of the approval, the person shall be deemed to be enrolled in respect of that course during that interruption.

(4) In relation to a time before the commencement of this Act—

(a) a reference in this section to a prescribed course shall be read as a reference to a course that would have been a prescribed course; and

(b) a reference in this section to a prescribed educational institution shall be read as a reference to an institution that would have been a prescribed educational institution,

if this Act and the regulations had been in force at that time.

(5) A reference in this section to a year, or a time, before 1 January 1980 includes a reference to a year, or a time, before the commencement of this Act.

Regulations

8. The Governor-General may make regulations for the purposes of sections 4, 6 and 7.

NOTE

1. Act No. 119, 1979; assented to 29 October 1979.