Education Services for Overseas Students (Registration Charges) Amendment Act 2011

No. 105, 2011

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 in ComLaw (http://www.comlaw.gov.au/)
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No. 105, 2011

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

[Assented to 26 September 2011]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Education Services for Overseas Students (Registration Charges) Amendment Act 2011.
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.

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not</td>
<td>The day this Act receives the Royal Assent.</td>
<td>26 September 2011</td>
</tr>
<tr>
<td>elsewhere covered by this table</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1</td>
<td>A single day to be fixed by Proclamation.</td>
<td>31 October 2011</td>
</tr>
<tr>
<td></td>
<td>However, if the provision(s) do not commence within the period of 6 months</td>
<td>(see F2011L02107)</td>
</tr>
<tr>
<td></td>
<td>beginning on the day this Act receives the Royal Assent, they commence on</td>
<td></td>
</tr>
<tr>
<td></td>
<td>the day after the end of that period.</td>
<td></td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Education Services for Overseas Students (Registration Charges) Act 1997

1 Subsection 5(2)

Repeal the subsection, substitute:

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.

2 Subsection 5(3)

Omit “provided by the provider”, substitute “for which the provider is registered”.

Note: The following heading to subsection 5(3) is inserted “Total enrolments”.

3 Paragraph 5(4)(b)

Repeal the paragraph, substitute:

(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.
Schedule 1 Amendments

4 At the end of section 5

Add:

(6) For the purposes of this section, if:
   (a) a provider is registered to provide a course for a State; and
   (b) the Register lists one or more locations within the State where the course will be provided;
the course is taken to be a separate course at each of those locations.

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.

Note: The following heading to subsection 5(5) is inserted “Working out what constitutes a course”.

5 Section 5A

Repeal the section.

6 Section 6

Repeal the section, substitute:

6 Entry to market charges

Application of section

(1) This section applies if:

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4 Education Services for Overseas Students (Registration Charges) Amendment Act 2011 No. 105, 2011

ComLaw Authoritative Act C2011A00105
(a) a designated authority for a State recommends under section 9 of the Education Services for Overseas Students Act 2000 (the ESOS Act) that a provider be registered under that Act to provide a course for the State to overseas students; and
(b) the provider meets the requirements in subsection 9(2) of that Act, other than the requirement in paragraph 9(2)(aa); and
(c) at the time the provider meets those requirements, the provider is not registered to provide any course for any State.

Amount of the entry to market charges and due dates

(2) The provider is (subject to subsection (3) of this section) liable to pay 3 entry to market charges of the amount specified in column 1 by the time specified in column 2.

<table>
<thead>
<tr>
<th>Item</th>
<th>Column 1 Amount of each charge</th>
<th>Column 2 Time by which each charge is payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$7,500</td>
<td>The time when the provider becomes registered to provide the course for the State under section 9 of the ESOS Act</td>
</tr>
<tr>
<td>2</td>
<td>$5,000</td>
<td>The end of the first anniversary of the day on which the provider was registered to provide the course for the State under section 9 of the ESOS Act</td>
</tr>
<tr>
<td>3</td>
<td>$2,500</td>
<td>The end of the second anniversary of the day on which the provider was registered to provide the course for the State under section 9 of the ESOS Act</td>
</tr>
</tbody>
</table>

Note: The dollar amounts of the charges are indexed under section 7.

(3) A provider is liable to pay the second or third entry to market charge only if the provider is still registered to provide the course for the State on the relevant anniversary referred to in column 2 of table item 2 or 3.

Exemptions from the charges

(4) The regulations may prescribe one or more classes of providers who are exempt from the requirement to pay the entry to market charges.
7 Subsection 7(1)
Omit “initial registration charge for any year (the current year) after 2004”, substitute “an entry to market charge for a year (the current year) after the initial year”.

Note: The following heading to subsection 7(1) is inserted “Application of section”.

8 Subsection 7(1A)
Omit “after 2004, unless that year is the first year to which a particular section 5A instrument applies”, substitute “after the initial year, unless that year is the first year to which regulations made under paragraph 5(7)(a) apply”.

9 Subsection 7(1A) (note)
Omit “the instrument”, substitute “the regulations”.

10 Subsection 7(2)
Omit “or in an instrument in effect under section 5A, and the amount specified in the formula”, substitute “, in regulations made under paragraph 5(7)(a), or in column 1 of the table”.

Note 1: The following heading to subsection 7(2) is inserted “Indexation formula”.
Note 2: The following heading to subsection 7(3) is inserted “Rounding factors and amounts”.
Note 3: The following heading to subsection 7(5) is inserted “Changes to CPI”.

11 At the end of section 7
Add:

Definition of initial year

(6) In this section, the initial year means the first calendar year in which the dollar amounts specified in subsection 5(2), and in the table in subsection 6(2), are imposed under section 8.

12 Section 8
Omit “the initial registration charge”, substitute “the entry to market charges”.

13 Section 9
Repeal the section, substitute:

Education Services for Overseas Students (Registration Charges) Amendment Act 2011 No. 105, 2011
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.

14 Application

(1) The amendments made by this Schedule (other than the amendments
made by items 6 and 13 of this Schedule) apply on and after the first
1 January that occurs after this Schedule commences.

(2) The amendment made by item 6 of this Schedule applies in relation to
any recommendation made by a designated authority for a State under
section 9 of the Education Services for Overseas Students Act 2000 on
or after the first 1 January that occurs after this Schedule commences.

[Minister’s second reading speech made in—
House of Representatives on 6 July 2011
Senate on 23 August 2011]