Education Services for Overseas Students Amendment (Registration Charges Consequential) Bill 2011

No. , 2011

(Amendment of the Education Services for Overseas Students Act 2000, and for related purposes)
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A Bill for an Act to amend the Education Services for Overseas Students Act 2000, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Education Services for Overseas Students Amendment (Registration Charges Consequentials) 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.
### Commencement information

<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 elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1, items 1 to 6</td>
<td>At the same time as Schedule 1 to the Education Services for Overseas Students (Registration Charges) Amendment Act 2011 commences.</td>
<td></td>
</tr>
<tr>
<td>3. Schedule 1, item 7</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>4. Schedule 1, items 8 to 17</td>
<td>At the same time as the provision(s) covered by table item 2.</td>
<td></td>
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</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**Note:** This table relates only to the provisions of this Act as originally enacted.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.

### 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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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 Act 2000

1 Section 5

Insert:

entry to market charge means an entry to market charge imposed under the Education Services for Overseas Students (Registration Charges) Act 1997.

2 Section 5

Insert:

first entry to market charge means the entry to market charge referred to in table item 1 of the table in subsection 6(2) of the Education Services for Overseas Students (Registration Charges) Act 1997.

3 Section 5 (definition of initial registration charge)

Repeal the definition.

4 Section 5

Insert:

second or third entry to market charge means the entry to market charge referred to in table item 2 or 3 (as the case requires) of the table in subsection 6(2) of the Education Services for Overseas Students (Registration Charges) Act 1997.

5 Paragraph 9(2)(aa)

Repeal the paragraph, substitute:

(aa) the provider has paid the first entry to market charge (unless the provider is exempt from the requirement to do so under regulations made under subsection 6(4) of the Education Services for Overseas Students (Registration Charges) Act 1997); and

6 Paragraph 9(2)(e)
Schedule 1 Amendments

After “annual registration charge”, insert “, a second or third entry to market charge”.

7 Subsections 9(10) and (11)
Repeal the subsections, substitute:

Registering providers for a period

(10) At the time the Secretary registers an approved provider, the Secretary must determine that the provider is registered for a specified period that is:
(a) more than 2 years; but
(b) no more than 5 years.

(10A) To avoid doubt, subsection (10) does not limit the Minister’s power under section 83 to cancel a registered provider’s registration within the first 2 years of the provider’s registration.

(10B) If:
(a) a registered provider’s registration for a course for a State is due to expire; and
(b) before that expiry, the designated authority for the State makes a recommendation that the provider continue to be registered to provide the course for the State; and
(c) by the time the provider’s registration would otherwise expire, the Secretary has not yet made a decision whether to register the provider;
the provider’s registration for the course for the State is taken to continue until the Secretary makes his or her decision.

(11) If an approved provider’s registration for a course is due to expire before the course has finished, the provider’s registration does not expire until the provider has provided the remainder of the course to the students who were enrolled in that course before the registration was due to expire.

8 Paragraph 9A(2)(g)
After “annual registration charge”, insert “, a second or third entry to market charge”.

9 After paragraph 10(4)(ca)
Insert:

(cb) the day on which the provider is registered under section 9;

10 Section 12

Repeal the section, substitute:

12 Entry to market charges

(1) The Secretary must give a written notice to each provider who is liable to pay an entry to market charge stating the amount of the charge.

Note 1: A provider must pay 3 entry to market charges during the first 2 years that the provider is first registered. A provider cannot get registered under section 9 until it has paid the first entry to market charge: see paragraph 9(2)(aa).

Note 2: For the amounts of the entry to market charges, see sections 6 and 7 of the Education Services for Overseas Students (Registration Charges) Act 1997.

(2) The Secretary must give the notice:

(a) for the first entry to market charge—before the Secretary registers the provider under section 9; and

(b) for the second or third entry to market charge—at least 30 days before the time at which the charge becomes due for payment.

Note: For when the charges become due for payment, see section 6 of the Education Services for Overseas Students (Registration Charges) Act 1997.

(3) A provider is still required to pay an entry to market charge despite a failure to comply with this section.

11 After section 23

Insert:

23A Second and third entry to market charges

A registered provider who is liable to pay a second or third entry to market charge must pay the charge in accordance with section 6 of the Education Services for Overseas Students (Registration Charges) Act 1997.
Note: The registration of a provider who breaches this section is automatically suspended: see section 90 of this Act.

12 After paragraph 90(1)(b)

Insert:

or (c) fails to pay a second or third entry to market charge in accordance with section 23A;

Note: The heading to section 90 is altered by omitting “annual Fund contribution, special levy or annual registration charge” and substituting “contribution, levy or charge”.

13 Paragraph 171(4)(a)

Repeal the paragraph, substitute:

(a) $500 for the initial year; and

14 At the end of section 171

Add:

Definition of initial year

(9) In this section, the initial year means the first calendar year in which the reinstatement fee is $500.

15 After paragraph 172(1)(a)

Insert:

(b) second or third entry to market charge; or

16 After paragraph 173(1)(a)

Insert:

(aa) the second and third entry to market charges;

17 Application

Item 7 of this Schedule

(1) Subsection 9(10) of the Education Services for Overseas Students Act 2000 (as inserted by item 7 of this Schedule) applies in relation to all registrations that occur after that item commences.

(2) Subsection 9(10B) of the Education Services for Overseas Students Act 2000 (as inserted by item 7 of this Schedule) applies in relation to any registration that is due to expire after that item commences.
1 Item 13 of this Schedule

2 (3) The amendment made by item 13 of this Schedule applies in relation to
3 any suspension of, or any condition imposed on, the registration of a
4 provider on or after the first 1 January that occurs after this item
5 commences.

6 All other amendments

7 (4) The amendments made by this Schedule (other than the amendments
8 made by items 7 and 13 of this Schedule) apply in relation to any
9 recommendation made by a designated authority for a State under
10 section 9 of the Education Services for Overseas Students Act 2000 on
11 or after the first 1 January that occurs after this item commences.