



Education Services for Overseas Students Amendment (Refunds of Charges and Other Measures) Act 2021

No. 18, 2021

**An Act to amend the *Education Services for
Overseas Students Act 2000*, 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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No. 18, 2021

An Act to amend the *Education Services for Overseas Students Act 2000*, and for related purposes

[Assented to 2 March 2021]

The Parliament of Australia enacts:

*No. 18, 2021 Education Services for Overseas Students Amendment (Refunds of
Charges and Other Measures) Act 2021 1*

1 Short title

This Act is the *Education Services for Overseas Students Amendment (Refunds of Charges and Other Measures) 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. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	2 March 2021
2. Schedule 1, Part 1	1 July 2021.	1 July 2021
3. Schedule 1, Part 2	The day after this Act receives the Royal Assent.	3 March 2021

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Refunds of charges

Education Services for Overseas Students Act 2000

1 After section 176C

Insert:

176D Refund of charge in special circumstances

The Secretary may, on behalf of the Commonwealth, refund the whole or part of a charge under the *Education Services for Overseas Students (Registration Charges) Act 1997* that is paid to the Commonwealth if the Secretary is satisfied that there are special circumstances that justify doing so.

2 Application provision

Section 176D of the *Education Services for Overseas Students Act 2000*, as inserted by this Part, applies in relation to charges paid on or after the commencement of this item.

Part 2—Other amendments

Education Services for Overseas Students Act 2000

3 Section 5

Insert:

Australian Qualifications Framework has the same meaning as in the *Higher Education Support Act 2003*.

4 Section 5 (definition of course)

Repeal the definition, substitute:

course has the meaning given by section 5AA.

5 After section 5

Insert:

5AA Definition of *course*

- (1) A *course* is a course of education or training that satisfies one or more of the following:
 - (a) the course leads to a qualification recognised in the Australian Qualifications Framework;
 - (b) the course is a course of education at a level that, under section 15 of the *Australian Education Act 2013*, constitutes primary education or secondary education;
 - (c) the course is a Foundation Program;
 - (d) the course is an ELICOS;
 - (e) the course is offered by a registered higher education provider;
 - (f) the course is a VET course within the meaning of the *National Vocational Education and Training Regulator Act 2011*.
- (2) The Minister may, by legislative instrument, determine that a course of education or training is a *course*.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

- (3) The Minister may, by legislative instrument, determine that a course of education or training is not a **course**.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

6 Transitional provisions

- (1) If a provider is registered under Division 3 of Part 2 of the *Education Services for Overseas Students Act 2000* immediately before the commencement of this item, then the registration continues in force on and after that commencement to the extent that the registration is in respect of a course covered by section 5AA of that Act (as inserted by this Part).
- (2) If an application made by a provider under section 9, 10D or 10H of the *Education Services for Overseas Students Act 2000* was pending immediately before the commencement of this item, then the relevant ESOS agency for the provider may, on and after that commencement, continue to deal with that application to the extent that the application is in respect of a course covered by section 5AA of that Act (as inserted by this Part).
- (3) If a condition imposed under section 10B or 83 of the *Education Services for Overseas Students Act 2000* was in force immediately before the commencement of this item, then the condition continues in force on and after that commencement to the extent that the condition is in respect of a course covered by section 5AA of that Act (as inserted by this Part).
- (4) If a notice was in force under section 10K of the *Education Services for Overseas Students Act 2000* immediately before the commencement of this item, then the notice continues in force on and after that commencement to the extent that the notice is in respect of a course covered by section 5AA of that Act (as inserted by this Part).

Schedule 1 Amendments
Part 2 Other amendments

- (5) If a suspension under section 83 of the *Education Services for Overseas Students Act 2000* was in force immediately before the commencement of this item, then the suspension continues in force on and after that commencement to the extent that the suspension is in respect of a course covered by section 5AA of that Act (as inserted by this Part).
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[Minister's second reading speech made in—
House of Representatives on 11 November 2020
Senate on 22 February 2021]

(143/20)

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