



Migration Legislation Amendment (English Tuition) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 18 March 2021

David Hurley
Governor-General

By His Excellency's Command

Alex Hawke
Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs

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1 Name

This instrument is the *Migration Legislation Amendment (English Tuition) Regulations 2021*.

2 Commencement

- (1) Each provision of this instrument 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 instrument	At the same time as Schedule 1 to the <i>Immigration (Education) Amendment (Expanding Access to English Tuition) Act 2020</i> commences.	19 April 2021

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the following:

- (a) the *Immigration (Education) Act 1971*;
- (b) the *Migration Act 1958*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Immigration (Education) Regulations 2018

1 Paragraph 9(d)

Repeal the paragraph, substitute:

- (d) any other compelling or compassionate reasons that existed during the non-participation period for making a particular decision on the application.

Migration Regulations 1994

2 Paragraph 2.12H(2)(f)

After “paragraph and”, insert “, within the period of 12 months starting on the applicant’s visa commencement day (within the meaning of the *Immigration (Education) Act 1971*), any of the following events occur”.

3 Subparagraphs 2.12H(2)(f)(i) to (iv)

Repeal the subparagraphs, substitute:

- (i) the applicant dies before commencing a course of English language tuition to which the applicant was entitled under section 4B of that Act;
- (ii) the applicant’s visa is cancelled before the applicant commences a course of English language tuition to which the applicant would otherwise be entitled under section 4B of that Act;
- (iii) the applicant’s visa ceases to have effect before the applicant commences a course of English language tuition to which the applicant would otherwise be entitled under section 4B of that Act;
- (iv) the obligation of the Commonwealth to the applicant under section 4B of that Act ceases, by operation of paragraph 4A(1)(b) of that Act, before the applicant commences a course of English language tuition to which the applicant would otherwise be entitled under section 4B of that Act.

4 Subregulation 2.12H(2A)

Repeal the subregulation, substitute:

- (2A) However, subparagraph (2)(f)(iii) does not apply if, before the visa ceases to have effect, the Commonwealth’s obligation under section 4B of the *Immigration (Education) Act 1971*, in relation to the applicant, has ceased by operation of paragraph 4C(2)(a) or (b) of that Act.

5 Paragraph 2.12H(4)(b)

Omit “4C”, substitute “4B”.

6 Paragraphs 5.17(f) and (j)

Repeal the paragraphs, substitute:

- (d) if evidence referred to in paragraph (a) cannot be provided by the person—
evidence that the person has been determined by the Minister, on the basis
of an interview with the person, to have functional English.