



Immigration (Education) Regulations 2018

made under the

Immigration (Education) Act 1971

Compilation No. 1

Compilation date: 19 April 2021

Includes amendments up to: F2021L00262

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Immigration (Education) Regulations 2018* that shows the text of the law as amended and in force on 19 April 2021 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This instrument is the *Immigration (Education) Regulations 2018*.

3 Authority

This instrument is made under the *Immigration (Education) Act 1971*.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) approved English course;
- (b) Secretary;
- (c) visa commencement day.

In this instrument:

Act means the *Immigration (Education) Act 1971*.

illness includes a physical or mental illness.

injury includes a physical or mental injury.

non-participation period, in relation to an application under subsection 4C(3) or 4D(3) of the Act, means the period starting on the applicant's visa commencement day and ending on the day on which the application is made.

Part 2—English courses

6 Requirements for application for extension of period for registration or commencement

For the purposes of paragraph 4C(4)(a) of the Act, an application under subsection 4C(3) of the Act must be made:

- (a) through a provider of an approved English course, electronically in the form approved in writing by the Secretary; and
- (b) within 10 years after the applicant's visa commencement day.

7 Matters to which Secretary must have regard when deciding on extension of period for registration or commencement

- (1) For the purposes of paragraph 4C(6)(a) of the Act, if the application is made by an applicant who is aged under 18 years on the applicant's visa commencement day, the following matters are prescribed:
 - (a) the applicant's medical history during the non-participation period, including the nature and duration of any serious illness or injury suffered by the applicant during the non-participation period;
 - (b) the applicant's family and caring commitments during the non-participation period;
 - (c) any other compelling or compassionate reasons that existed during the non-participation period for making a particular decision on the application.
- (2) For the purposes of paragraph 4C(6)(a) of the Act, if the application is made by an applicant who is aged 18 years or over on the applicant's visa commencement day, the following matters are prescribed:
 - (a) the applicant's record in learning English during the non-participation period;
 - (b) during the non-participation period, the applicant's participation in, and suitability for, educational services generally available to members of the public;
 - (c) the applicant's employment record during the non-participation period;
 - (d) the applicant's medical history during the non-participation period, including the nature and duration of any serious illness or injury suffered by the applicant during the non-participation period;
 - (e) the applicant's family and caring commitments during the non-participation period;
 - (f) whether the applicant was not in Australia at any time during the non-participation period;
 - (g) any other compelling or compassionate reasons that existed during the non-participation period for making a particular decision on the application.

8 Requirements for application for extension of time limit on tuition

For the purposes of paragraph 4D(4)(a) of the Act, an application under subsection 4D(3) of the Act must be made:

- (a) through a provider of an approved English course, electronically in the form approved in writing by the Secretary; and
- (b) within 10 years after the applicant's visa commencement day.

9 Matters to which Secretary must have regard when deciding on extension of time limit on tuition

For the purposes of paragraph 4D(6)(a) of the Act, the following matters are prescribed in relation to a decision under subsection 4D(5) of the Act on an application:

- (a) the applicant's medical history during the non-participation period, including the nature and duration of any serious illness or injury suffered by the applicant during the non-participation period;
- (b) whether a family member of the applicant died during the non-participation period;
- (c) whether the applicant had a traumatic experience during the non-participation period;
- (d) any other compelling or compassionate reasons that existed during the non-participation period for making a particular decision on the application.

Part 3—Citizenship courses

10 Persons to whom citizenship courses may be provided

For the purposes of section 4E of the Act, a person who has made an application under subsection 21(1) of the *Australian Citizenship Act 2007* on the basis that the person may be eligible to become an Australian citizen under subsection 21(2) of that Act is prescribed.

Part 4—Application, saving and transitional provisions

11 Applications made under the *Immigration (Education) Regulations 1992*

Despite the repeal of the *Immigration (Education) Regulations 1992*, those regulations continue to apply, as if the repeal had not happened, in relation to an application made under subsection 4C(3) or 4D(3) of the Act before the commencement of this section.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Immigration (Education) Regulations 2018	6 Aug 2018 (F2018L01095)	1 Oct 2018 (s 2(1) item 1)	
Migration Legislation Amendment (English Tuition) Regulations 2021	19 Mar 2021 (F2021L00262)	Sch 1 (item 1): 19 Apr 2021 (s 2(1) item 1)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	rep LA s 48C
Part 2	
s 9	am F2021L00262
Schedule 1	rep LA s 48C