



# **Education Services for Overseas Students (Registration Charges) Act 1997**

**Act No. 18 of 1997 as amended**

This compilation was prepared on 26 September 2003  
taking into account amendments up to Act No. 89 of 2003

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# **An Act to impose registration charges in relation to the Commonwealth Register of Institutions and Courses for Overseas Students**

## **1 Short title** [see Note 1]

This Act may be cited as the *Education Services for Overseas Students (Registration Charges) Act 1997*.

## **2 Commencement** [see Note 1]

This Act commences on the day on which the *Education Services for Overseas Students (Registration of Providers and Financial Regulation) Amendment Act (No. 1) 1997* commences.

## **3 Crown to be bound**

This Act binds the Crown in each of its capacities.

## **4 Interpretation**

An expression used in this Act that is also used in the *Education Services for Overseas Students Act 2000* has the same meaning as in that Act, unless the contrary intention appears.

## **5 Annual registration charge**

- (1) A provider who is a registered provider on 1 January of a year is liable to pay an annual registration charge for the year.

Note: This section extends to a registered provider whose registration has been suspended.

- (2) The amount of the charge for the provider for the year is the sum of:
- (a) \$300; and
  - (b) \$25 multiplied by the total enrolments for the provider in the previous year.

## Section 5A

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Note 1: The dollar amounts are indexed under section 7 for 2005 and later years.

Note 2: A dollar amount may be different if an instrument under section 5A is in force.

- (3) The *total enrolments* for a provider in a year is worked out by adding together the number of enrolments of overseas students for each course provided by the provider in the year.
- (4) When working out the enrolments for a course for a year:
  - (a) for a course of at least 26 weeks duration—each student who is enrolled in the course at any time during the year counts as one enrolment; and
  - (b) for a course of 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.
- (5) For the purposes of this section, a course that spans 2 or more years is taken to be a separate course in each of those years.

### **5A Variation of annual registration charge**

- (1) The Governor-General may make a written instrument providing that:
  - (a) a dollar amount specified in paragraph 5(2)(a) or (b) is replaced by the dollar amount specified in the instrument; or
  - (b) the dollar amounts specified in paragraphs 5(2)(a) and (b) are replaced by the dollar amounts specified in the instrument.
- (2) The instrument must be expressed to apply to the first year beginning after it is made and all later years.
- (3) The instrument may provide that a replacement dollar amount or amounts apply to one class of provider only, or may provide different replacement dollar amounts for different classes of provider.
- (4) The Minister must table a copy of the instrument in each House of the Parliament as soon as practicable.

- (5) If each House of the Parliament passes a resolution approving the instrument, then, for each class of provider that the instrument relates to, the amount of annual registration charge payable for the relevant years is worked out using the replacement dollar amount or amounts specified in the instrument instead of the dollar amount or amounts that would otherwise have applied.

## 6 Initial registration charge

- (1) Upon becoming registered, a provider is liable to pay an initial registration charge.

Note: A provider is liable to pay the initial registration charge each time the provider becomes registered.

- (2) The amount of the charge for a registration is worked out using the formula:

$$\$300 \times \frac{\text{Remaining months}}{12}$$

where:

***remaining months*** means the number of complete months that remain in the year after the provider becomes registered.

Note: The amount of the charge is indexed under section 7 for 1998 and later years.

## 7 Indexation of amounts

- (1) This section applies for the purpose of working out the amount of initial registration charge for any year (the ***current year***) after 2004.

- (1A) This section also applies for the purpose of working out the amount of annual registration charge for any year (also called the ***current year***) after 2004, unless that year is the first year to which a particular section 5A instrument applies.

Note: The reason for the exception is that the possibility of indexation for that year can be taken into account in making the instrument, so there is no need for this section to apply as well.

- (2) The dollar amounts specified in subsection 5(2) or in an instrument in effect under section 5A, and the amount specified in the formula in subsection 6(2), are to be adjusted for the current year by multiplying the amounts that applied to the year before the current year by the indexation factor worked out using the formula:

$$\frac{\text{Index number for the recent September quarter}}{\text{Index number for the previous September quarter}}$$

where:

***index number***, for a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician for that quarter.

***recent September quarter*** means the September quarter in the year before the current year.

***previous September quarter*** means the September quarter before the recent September quarter.

- (3) The indexation factor worked out under subsection (2) must be rounded up or down to 3 places (rounding up in the case of exactly halfway between).
- (4) Amounts worked out under subsection (2) must be rounded to the nearest whole dollar (rounding up in the case of 50 cents).
- (5) If at any time (whether before or after the commencement of this section) the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of applying this section after the change, only index numbers published in terms of the new reference base are to be used.

## 8 Imposition of charges

The annual registration charge and the initial registration charge are imposed by this section.

## **9 Transitional arrangements for 1997**

If this Act does not commence before 1 January 1997, then subsection 5(1) applies for 1997 as if the reference in that subsection to “1 January of a year” were a reference to “the day this Act commenced”.



**Table of Acts**

**Notes to the *Education Services for Overseas Students (Registration Charges) Act 1997***

**Note 1**

The *Education Services for Overseas Students (Registration Charges) Act 1997* as shown in this compilation comprises Act No. 18, 1997 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Education Services for Overseas Students (Registration Charges) Act 1997</i>	18, 1997	27 Mar 1997	24 Apr 1997 (see s. 2)	
<i>Education Services for Overseas Students (Consequential and Transitional) Act 2000</i>	166, 2000	21 Dec 2000	Schedule 1 (item 2) and Schedule 2: 4 June 2001 (see <i>Gazette</i> 2001, No. S175) (a)	Sch. 2
<i>Education Services for Overseas Students (Registration Charges) Amendment Act 2000</i>	167, 2000	21 Dec 2000	21 Dec 2000	Sch. 1 (item 11)
<i>Education Services for Overseas Students (Registration Charges) Amendment Act 2003</i>	89, 2003	23 Sept 2003	23 Sept 2003	S. 4

## **Act Notes**

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- (a) The *Education Services for Overseas Students (Registration Charges) Act 1997* was amended by Schedule 1 (item 2) only of the *Education Services for Overseas Students (Consequential and Transitional) Act 2000*, subsection 2(4) of which provides as follows:
- (4) The remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

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**Table of Amendments**

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**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 4.....	am. No. 166, 2000
S. 5.....	am. No. 167, 2000; No. 89, 2003
Note to s. 5(2).....	rep. No. 167, 2000
Note 1 to s. 5(2).....	ad. No. 167, 2000 rs. No. 89, 2003
Note 2 to s. 5(2).....	ad. No. 167, 2000 rs. No. 89, 2003
S. 5A .....	ad. No. 167, 2000 am. No. 89, 2003
S. 7.....	am. No. 167, 2000; No. 89, 2003

## **Table A**

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### **Table A**

#### **Application, saving or transitional provisions**

*Education Services for Overseas Students (Consequential and Transitional) Act 2000* (No. 166, 2000)

### **Schedule 2**

#### **1 Application—starting day for obligations of registered providers**

*Minister must publish starting day*

- (1) The Minister must publish a notice in the *Gazette* specifying the starting day of the obligations in sections 19, 20 and 21 of the new ESOS Act. The starting day must be at least 28 days after the day of the publication.
- (2) The Minister must also notify in writing each registered provider of the starting day.

*Notification of details about accepted students*

- (3) The requirements in section 19 (giving information about accepted students) of the new ESOS Act apply to all events that happen on or after the starting day in relation to all persons who became or become accepted students on or after that day.
- (4) The requirements in paragraphs 19(1)(d) and (e) and subsection 19(2) of the new ESOS Act also apply to events that happen on or after the starting day in relation to persons who became accepted students before that day.

*Notification of student visa breaches*

- (5) The requirements in section 20 (sending students notice of visa breaches) of the new ESOS Act apply to all breaches that happen on or after the starting day.

**Table A**

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*Record keeping*

- (6) The requirements in section 21 (record keeping) of the new ESOS Act apply to all current and future accepted students from the starting day onwards.
- (7) However, the notice under subitem (1) may prescribe a period or further period giving providers who are registered when the requirement in section 21 takes effect extra time to comply with the requirement.

**2 Transitional—registration**

- (1) The registration of a provider that was in effect under the old ESOS Act immediately before the commencement of this item continues to have effect after that time as if the registration had been done for the same courses under the new ESOS Act.
- (2) If that registration was suspended under the old ESOS Act immediately before the commencement of this item, the new registration has effect after that time as if it had been suspended to the same extent under the new ESOS Act.

**3 Transitional—national code**

The national code may prescribe a period or a further period giving providers who are registered when the code takes effect extra time to comply with the requirements of the code.

**4 Application—notified trust accounts and ESOS Assurance Fund**

- (1) The requirements in the old ESOS Act relating to notified trust accounts continue to apply until Part 5 of the new ESOS Act commences even if Schedule 1 to this Act repealed those requirements earlier.
- (2) The requirements in the new ESOS Act relating to the ESOS Assurance Fund apply to 2001 and later years.
- (3) However, the Minister may publish a notice in the *Gazette* stating that those Fund requirements apply instead to 2002 and later years.

## **Table A**

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- (4) In that case, the requirements in the old ESOS Act relating to notified trust accounts continue to apply until the later of:
- (a) the beginning of 2002; and
  - (b) the commencement of Part 5 of the new ESOS Act;
- even if Schedule 1 to this Act repealed those requirements earlier.

### **5 Transitional—money in notified trust accounts**

- (1) This item applies to course money that was in a notified trust account immediately before the requirements in the old ESOS Act relating to such accounts ceased to apply.
- (2) The course money is no longer considered to be held on trust after that time.

### **6 Transitional—regulations**

Regulations under the new ESOS Act may provide for the transition from the old ESOS Act to the new ESOS Act, and for related transitional matters.

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*Education Services for Overseas Students (Registration Charges) Amendment Act 2000* (No. 167, 2000)

## **Schedule 1**

### **11 Application of amendments**

The amendments made by this Schedule apply in working out the amount of charge payable for 2001 and all later years.

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*Education Services for Overseas Students (Registration Charges) Amendment Act 2003* (No. 89, 2003)

### **4 Application**

The amendments made by Schedule 1 apply:

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**Table A**

- (a) to the annual registration charge for the first calendar year after the calendar year in which this Act commences and all later calendar years; and
- (b) to the initial registration charge for registrations on or after 1 January in the first calendar year after the calendar year in which this Act commences.