



# **Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011**

**Act No. 106 of 2011 as amended**

This compilation was prepared on 10 May 2012  
taking into account amendments up to Act No. 9 of 2012

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

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra



---

## Contents

1	Short title [ <i>see</i> Note 1].....	1
2	Commencement.....	1
3	Schedule(s).....	2
<b>Schedule 1—Amendments</b>		<b>3</b>
	<i>Education Services for Overseas Students Act 2000</i>	3
<b>Notes</b>		<b>9</b>

---

*Education Services for Overseas Students Amendment (Registration Charges  
Consequential) Act 2011* iii



---

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

## 1 Short title [see Note 1]

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		
Column 1	Column 2	Column 3
Provision(s)	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.	26 September 2011
2. Schedule 1, items 1 to 6	At the same time as Schedule 1 to the <i>Education Services for Overseas Students (Registration Charges) Amendment Act 2011</i> commences.	31 October 2011
3. Schedule 1, item 7	The day this Act receives the Royal Assent.	26 September 2011
4. Schedule 1, items 8 to 17	At the same time as the provision(s) covered by table item 2.	31 October 2011
Note:	This table relates only to the provisions of this Act as originally enacted.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.	

---

*Education Services for Overseas Students Amendment (Registration Charges Consequentials) Act 2011* 1

- 
- (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 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.

---

2        *Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011*

---

## 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)**

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.

*Item 13 of this Schedule*

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

*All other amendments*

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



**Table of Acts**

**Notes to the *Education Services for Overseas  
Students Amendment (Registration Charges  
Consequential) Act 2011***

**Note 1**

The *Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011* as shown in this compilation comprises Act No. 106, 2011 amended as indicated in the Tables below.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011</i>	106, 2011	26 Sept 2011	See s. 2(1)	
<i>Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012</i>	9, 2012	20 Mar 2012	Schedule 2 (item 87): [see (a) and Note 2] Schedule 2 (items 89–93): (a)	—

Notes to the *Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011*

**Act Notes**

(a) Subsection 2(1) (items 6 and 8–10) of the *Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Act 2012* provides as follows:

- (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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
6. Schedule 2, Parts 1 and 2	The first 1 July that occurs on or after the day this Act receives the Royal Assent.	
8. Schedule 2, Part 3, Division 2	The later of: (a) immediately after the commencement of the provision(s) covered by table item 6; and (b) immediately after the commencement of Schedule 1 to the <i>Education Services for Overseas Students (Registration Charges) Amendment Act 2011</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	[see Note 2]  (paragraph (a) applies)
9. Schedule 2, Part 3, Division 3	Immediately before the commencement of item 7 of Schedule 1 to the <i>Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011</i> .  However, if that item commences at the same time as, or before, Part 2 of Schedule 2 to this Act, the provision(s) do not commence at all.	Does not commence
10. Schedule 2, Part 3, Division 4	Immediately before the commencement of items 5, 6, 8 and 9 of Schedule 1 to the <i>Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011</i> .  However, if those items commence at the same time as, or before, Part 2 of Schedule 2 to this Act, the provision(s) do not commence at all.	Does not commence

10 *Education Services for Overseas Students Amendment (Registration Charges Consequential) Act 2011*

---

**Note 2**

**Note 2**

*Education Services for Overseas Students Legislation Amendment (Tuition  
Protection Service and Other Measures) Act 2012* (No. 9, 2012)

The following amendment commences immediately after 1 July 2012:

**Schedule 2**

**87 Subitem 17(4) of Schedule 1**

Omit “for a State under section 9”, substitute “under section 9AB”.

As at 10 May 2012 the amendment is not incorporated in this compilation.