

Education Services for Overseas Students (TPS Levies) Amendment Act 2017

No. 98, 2017

An Act to amend the *Education Services for Overseas Students (TPS Levies) Act 2012*, and for related purposes

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An Act to amend the *Education Services for Overseas Students (TPS Levies) Act 2012*, and for related purposes

[*Assented to 14 September 2017*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Education Services for Overseas Students (TPS Levies) Amendment Act 2017*.

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. The whole of this Act | The day after this Act receives the Royal Assent. | 15 September 2017 |

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Education Services for Overseas Students (TPS Levies) Act 2012

1 Subsection 4(1)

Insert:

***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 in relation to that quarter.

***September quarter*** means a period of 3 months starting on 1 July.

2 Paragraphs 5(4)(a) and (b)

Omit “specified in”, substitute “under”.

3 Subsection 5(4) (note 1)

Omit “Note 1”, substitute “Note”.

4 Subsection 5(4) (note 2)

Repeal the note.

5 Sections 6 and 7

Repeal the sections, substitute:

6 Administrative fee component

Subject to section 8, a registered provider’s ***administrative fee component*** for a year is the sum of:

(a) the amount (a ***dollar amount***) determined in an instrument under section 7A for the purposes of this paragraph for that year; and

(b) the amount (a ***dollar amount***) determined in an instrument under section 7A for the purposes of this paragraph for that year, multiplied by the total enrolments for the provider for the previous year.

Note 1: For ***total enrolments***, see section 4.

Note 2: The dollar amounts areindexed under section 8.

7 Base fee component

Subject to section 8, a registered provider’s ***base fee component*** for a year is the sum of:

(a) the amount (a ***dollar amount***) determined in an instrument under section 7A for the purposes of this paragraph for that year; and

(b) the amount (a ***dollar amount***) determined in an instrument under section 7A for the purposes of this paragraph for that year, multiplied by the total enrolments for the provider for the previous year.

Note 1: For ***total enrolments***, see section 4.

Note 2: The dollar amounts areindexed under section 8.

7A Legislative instrument for purposes of section 6 or 7

Calendar year beginning on 1 January 2018

(1) Before the calendar year beginning on 1 January 2018, the Minister must, by legislative instrument, do all of the following:

(a) determine an amount for the purposes of paragraph 6(a) for that year;

(b) determine an amount for the purposes of paragraph 6(b) for that year;

(c) determine an amount for the purposes of paragraph 7(a) for that year;

(d) determine an amount for the purposes of paragraph 7(b) for that year.

Later calendar years

(2) Before the calendar year beginning on 1 January 2019 or a later calendar year, the Minister may, by legislative instrument, do one or more of the following:

(a) determine an amount for the purposes of paragraph 6(a) for that year;

(b) determine an amount for the purposes of paragraph 6(b) for that year;

(c) determine an amount for the purposes of paragraph 7(a) for that year;

(d) determine an amount for the purposes of paragraph 7(b) for that year.

Upper limit

(3) The Minister must not determine an amount in an instrument under this section for the purposes of paragraph 6(a) or (b) or 7(a) or (b) for a year that exceeds the following:

(a) for paragraph 6(a)—$107;

(b) for paragraph 6(b)—$2.15;

(c) for paragraph 7(a)—$215;

(d) for paragraph 7(b)—$5.38.

Note: Indexation under section 8 of the dollar amount under paragraph 6(a) or (b) or 7(a) or (b) may result in that amount exceeding the upper limit in this subsection that applies to the Minister’s determination‑making power.

Having regard to matters

(4) In making a legislative instrument under this section, the Minister must have regard to the sustainability of the OSTF.

(5) The Minister may also have regard to any other matter he or she considers appropriate.

6 Subsections 8(1) and (2)

Repeal the subsections, substitute:

(1) This section applies for the purpose of working out a dollar amount under paragraph 6(a) or (b) or 7(a) or (b) for the calendar year (the ***current year***) beginning on 1 January 2019 or a later calendar year (the ***current year***) if in the previous year the Minister did not make an instrument under section 7A for the purposes of that paragraph for the current year.

(2) The dollar amount under that paragraph is on 1 January of the current year replaced by the amount worked out using the formula:



Indexation factor

(2A) The ***indexation factor*** for a 1 January is the number worked out using the formula:



where:

***base September quarter*** means the last September quarter before the reference September quarter.

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

7 Subsection 8(3)

Omit “subsection (2)”, substitute “subsection (2A)”.

8 At the end of section 8

Add:

Publication

(7) The Minister must cause each amount worked out under subsection (2) to be made publicly available in any manner he or she considers appropriate.

9 Part 3 (heading)

Repeal the heading.

10 Section 11 (heading)

Repeal the heading, substitute:

11 Rules for making legislative instrument under section 9 or 10

11 Before section 12

Insert:

Part 3—Other matters

12 Section 13

Repeal the section.

13 Application and saving provisions

(1) The amendments made by this Schedule apply in relation to working out the amount of TPS levy under subsection 5(2) or (4) of the *Education Services for Overseas Students (TPS Levies) Act 2012* for the calendar year beginning on 1 January 2018 and each later calendar year.

(2) The amendments made by this Schedule do not affect the continuity of any instrument in force under section 12 of the *Education Services for Overseas Students (TPS Levies) Act 2012* immediately before the commencement of this item.

[*Minister’s second reading speech made in—*

*House of Representatives on 10 August 2017*

*Senate on 7 September 2017*]

(157/17)