

Immigration (Education) Regulations (Amendment) 1997 No. 136

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 136

Issued by the authority of the Minister for Immigration and Multicultural Affairs

Immigration (Education) Act 1971

Immigration (Education) Regulations (Amendment)

Section 13 of the *Immigration (Education) Act 1971* (the Act) provides that the Governor-General may make regulations prescribing matters required and permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 4 of the Act provides that the Minister may arrange for English and citizenship courses to be provided for certain persons set out in that section. Paragraph 4(b) of the section gives the Minister the power to arrange courses for persons in Australia who hold a temporary visa of a class specified by the Minister in a *Gazette* notice,

Paragraph 4A(3)(b) of the Act provides that the regulations may provide for the refund, reduction or waiving of fees in cases identified in the regulations.

Section 4B of the Act provides that the Minister is to arrange for English courses to be provided for certain persons if those persons are not excluded from being provided with English tuition by the regulations.

Section 4C of the Act provides, subject to section 41) which relates to periods of time or level of functional English, that the Commonwealth is obliged to provide, or arrange the provision of, 5 to 10 hours of tuition in an approved English course to a certain person if the person is not excluded from being provided with English tuition by the regulations.

The purpose of the Regulations is to:

- exempt the holders of Interdependency (Provisional) (Class UG) and Spouse (Provisional) (Class UF) visas, and Subclass 820 (Spouse) and Subclass 826 (Interdependency) visas from English course fees (regulation 3); and
- prevent people who have had access to English tuition under section 4 of the Act from also gaining access to English tuition under section 4B or 4C of the Act (regulation 4).

Regulation 1 - Commencement

This regulation provides that these Regulations commence on 1 July 1997.

Regulation 2 - Amendment

This regulation provides that the Immigration (Education) Regulations are amended as set out in these Regulations.

Regulation 3 - Regulation 4 (Fees - prescribed English courses)

This regulation exempts the holder of an Interdependency (Provisional) (Class UG) or a Spouse (Provisional) (Class UF) visa; or the holder of a Subclass 820 (Spouse) or Subclass 826

(Interdependency) visa, under the Migration Regulations, from paying the fee for a prescribed English course upon enrolment in the course.

The effect of the amendment is that spouse and interdependent visa holders who applied for and were granted visas in Australia are treated in a comparable way to those spouse and interdependent visa holders who applied for a visa while they were outside Australia.

Regulation 4 - New regulation 5A

This regulation inserts new regulation 5A, which provides that a person who has been provided with an English course under section 4 of the Act cannot be provided with English tuition under either section 4B or section 4C of the Act.

Some persons holding temporary visas may be permitted to access an English course under section 4 of the Act where it is likely that they will subsequently be granted a visa that will confer an entitlement to an English course under sections 4B and 4C. This amendment ensures that where a person has been permitted to enrol in an English course under section 4 of the Act, that person will not also subsequently become entitled to access an approved English course under sections 4B and 4C of the Act.

The Regulations commence on 1 July 1997.