

Migration Legislation (Fees) Amendment Regulations 2004 (No. 1) **2004 No. 192**

EXPLANATORY STATEMENT

STATUTORY RULES 2004 NO. 192

Issued by the Minister for Immigration and Multicultural and Indigenous Affairs

Migration Act 1958
Immigration (Education) Act 1971
Migration Agents Registration Application Charge Act 1997

Migration Legislation (Fees) Amendment Regulations 2004 (No. 1)

Subsection 504(1) of the *Migration Act 1958* (the Act) provides in part that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 504(1)(a) of the *Migration Act 1958* provides that regulations may be made to provide for the charging and recovery of fees in respect of any matter under the Act or the regulations.

Section 13 of the *Immigration (Education) Act 1971* provides that the Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Section 8 of the *Migration Agents Registration Application Charge Act 1997* provides that the Governor-General may make regulations for the purposes of section 6, which relates to the amount of charge payable on an individual's making of a registration application as a migration agent.

The purpose of the Regulations is to amend the *Migration Regulations 1994*, the *Immigration (Education) Regulations 1992* and the *Migration Agents Registration Application Charge Regulations 1998* (the amended Regulations) to increase certain fees and charges.

The Regulations reflect regular changes that are made every 1 July to adjust fees and charges in legislation administered by the Minister.

In particular, the Regulations effect changes to the amended Regulations to provide for the indexation of fees and charges in accordance with the formula in section 5 of the *Migration (Visa Application) Charge Act 1997*. The indexation results in an increase of about 2.8% for most fees and charges. The quantum of this increase does not exceed the applicable fee limit set out in the *Migration (Visa Application) Charge Act 1997*.

Details of the Regulations are set out in the Attachment.

The Regulations commence on 1 July 2004.

0405019A-040617Z

ATTACHMENT

Details of the *Migration Legislation (Fees) Amendment Regulations 2004 (No. 1)*

Regulation 1 - Name of Regulations

This regulation provides that these Regulations are the *Migration Legislation (Fees) Amendment Regulations 2004 (No. 1)*.

Regulation 2 - Commencement

This regulation provides that these Regulations commence on 1 July 2004.

Regulation 3 - Amendment of *Migration Regulations 1994*

This regulation provides that Schedule 1 amends the *Migration Regulations 1994* as amended by the *Migration Amendment Regulations 2004 (No. 2)* and the *Migration Amendment Regulations 2004 (No. 3)*, the relevant provisions of which do not commence until 1 July 2004.

Regulation 4 - Amendment of *Immigration (Education) Regulations 1992*

This regulation provides that Schedule 2 amends the *Immigration (Education) Regulations 1992*.

Regulation 5 - Amendment of *Migration Agents Registration Application Charge Regulations 1998*

This regulation provides that Schedule 3 amends the *Migration Agents Registration Application Charge Regulations 1998*.

Schedule 1 - Amendments of *Migration Regulations 1994*

Item [1] - Subregulation 1.20C(3) to Item [130] - Schedule 1 subparagraph 1225(2)(b)(i)

These items amend Parts 1 and 5 and Schedule 1 to the *Migration Regulations 1994* to provide for the annual indexation of specified fees and charges. The indexation will result in an increase to fees and charges of approximately 2.8%, in line with general price movements, with the increase rounded to a multiple of \$5.00 according to the following methodology:

- if the amount of the charge calculated under this formula is not a multiple of \$5.00, and if the amount exceeds the nearest lower multiple of \$5.00 by \$2.50 or more, the amount is rounded up to the nearest \$5.00;
- in any other case where the charge calculated under the formula is not a multiple of \$5.00, the amount is rounded down to the nearest lower multiple of \$5.00.

The amount of the increase in these items does not exceed the applicable charge limit set out in section 5 of the *Migration (Visa Application) Charge Act 1997* which is, as at 1 July 2004, approximately \$15,195.

Schedule 2 - Amendment of *Immigration (Education) Regulations 1992*

Item [1] - Paragraph 4 (1) (a)

This item amends Regulation 4 of the *Immigration (Education) Regulations 1992* to provide for the annual indexation of specified fees and charges. The indexation will result in an increase to fees and charges of approximately 2.8%, in line with general price movements, with the increase rounded to a multiple of \$5.00 according to the methodology described above for Schedule 1.

The amount of the increase in these items does not exceed the applicable charge limit set out in section 5 of the *Migration (Visa Application) Charge Act 1997* which is, as at 1 July 2004, approximately \$15,195.

Schedule 3 - Amendments of *Migration Agents Registration Application Charge Regulations 1998*

Item [1] - Paragraph 4(2)(a) to Item [4] - Paragraph 5(2)(b)

These items amend Regulations 4 and 5 of the *Migration Agents Registration Application Charge Regulations 1998* to provide for the annual indexation of specified fees and charges. The indexation will result in an increase to fees and charges of approximately 2.8%, in line with general price movements, with the increase rounded to a multiple of \$5.00 according to the methodology described above for Schedule I.

The amount of the increase in these items does not exceed the applicable charge limit set out in section 5 of the *Migration (Visa Application) Charge Act 1997* which is, as at 1 July 2004, approximately \$15,195.