

# **Migration Agents Registration Application Charge Amendment Regulations 2004 (No. 2) 2004 No. 247**

## EXPLANATORY STATEMENT

### STATUTORY RULES 2004 NO. 247

Issued by the Minister for Citizenship and Multicultural Affairs

*Migration Agents Registration Application Charge Act 1998*

*Migration Agents Registration Application Charge Amendment Regulations 2004 (No. 2)*

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. Section 6 of that Act provides that the amount of charge payable on an individual's making of a registration application as a migration agent is the amount prescribed by the regulations.

The purpose of the Regulations is to amend the *Migration Agents Registration Application Charge Regulations 1998* (the Principal Regulations) to reverse the incorrect increase of certain charges from 1 July 2004. The following charges payable by applicants for registration as migration agents are restored to their pre-1 July 2004 amounts:

- the charge payable by an individual who acts on a commercial or for-profit basis when making either an application for registration or repeat registration as a migration agent;
- the charge payable by an individual who acts on a non-commercial or non-profit basis when making either an application for registration or repeat registration as a migration agent.

The *Migration Legislation (Fees) Amendment Regulations 2004 (No. 1)* (the Amendment Regulations) amended the Principal Regulations, the *Migration Regulations 1994* and the *Immigration (Education) Regulations 1992* from 1 July 2004 to increase certain fees and charges by approximately 2.8%, in line with general price movements. These amendments were made under the authority of the *Migration (Visa Application) Charges Act 1997*. The Principal Regulations are not, however, subject to that Act; they are made under the authority of the *Migration Agents Registration Application Charge Act 1997*. The increase in charges in the Principal Regulations was therefore made in error and should be reversed.

The Regulations reverse everything in Schedule 3 to the Amendment Regulations. However, there is no need to adjust any other parts of those Regulations, because they were validly made.

Details of the Regulations are set out in the Attachment.

The Regulations are taken to have commenced on 1 July 2004.

The Regulations have retrospective effect by reducing the charge payable for applications made to register as a migration agent from 1 July 2004. The Australian Government Solicitor advises that the amendments made by the Regulations are not contrary to subsection 48(2) of the *Acts Interpretation Act 1901* as the changes are beneficial in nature, and do not affect the rights of any person in respect of anything done, or omitted to be done, before the date of notification.

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## **ATTACHMENT**

**Details of the *Migration Agents Registration Application Charge Amendment Regulations 2004 (No. 2)***

## Regulation 1 - Name of Regulations

This regulation provides that these Regulations are the *Migration Agents Registration Application Charge Amendment Regulations 2004 (No. 2)*.

## Regulation 2 - Commencement

These Regulations are taken to have commenced on 1 July 2004.

## Regulation 3 - Amendment of *Migration Agents Registration Application Charge Regulations 1998*

Schedule 1 amends the *Migration Agents Registration Application Charge Regulations 1998*, as amended by the *Migration Legislation (Fees) Amendment Regulations 2004 (No. 1)*.

## Schedule 1 - Amendments

Item [1] - Paragraph 4(2)(a)

Item [2] - Paragraph 4(2)(b)

Item [3] - Paragraph 5(2)(a)

Item [4] - Paragraph 5(2)(b)

These items amend Regulations 4 and 5 of the *Migration Agents Registration Application Charge Regulations 1998* to change the registration application charge amounts in paragraphs 4(2)(a) and (b), and paragraphs 5(2)(a) and (b), back to the charge amounts in place before 1 July 2004.

Regulation 4 applies to registration applications made by individuals who act on a commercial or for-profit basis, or as a member or person associated with an organisation that operates on a commercial or for-profit organisation. Regulation 5 applies to registration applications made by individuals who act on a non-commercial or non-profit basis, or as a member or person associated with an organisation that operates on a non-commercial or non-profit organisation.

The charges in paragraphs 4(2)(a) and (b) and paragraphs 5(2)(a) and (b) were mistakenly increased by items [1] to [4] of Schedule 3 to the *Migration Legislation (Fees) Amendment Regulations 2004 (No. 1)* from 1 July 2004 by approximately 2.8%. These amendments were made under the authority of the *Migration (Visa Application) Charges Act 1997*. The Principal Regulations are not, however, subject to that Act. Charges in the Principal Regulations are increased from time to time following a recommendation by the Migration Agents Registration Authority to the Minister. No recommendation was made by the Migration Agents Registration Authority to the Minister for any charges in the Principal Regulations to be increased from 1 July 2004.

The amendments made by these items provide that the relevant charges for paragraphs 4(2)(a) and (b) are \$1,760 and \$1,050 respectively, and for paragraphs 5(2)(a) and (b) are \$160 and \$105 respectively. The retrospective operation of these Regulations will ensure that no person will be adversely affected by the incorrect increase of these charges by the *Migration Legislation (Fees) Amendment Regulations 2004 (No. 1)*.