

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 157

Issued by the Minister for Immigration
and Multicultural Affairs

Subject - *Immigration (Education) Act 1971*

Immigration (Education) Amendment Regulations 2006 (No. 1)

Section 13 of the *Immigration (Education) Act 1971* ('the Act') provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or 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 courses and citizenship courses to be provided for persons outside Australia intending to migrate to Australia, and for certain persons in Australia, in certain circumstances. Subsection 4A(1) provides that the regulations may provide for the charging and recovery of fees, not exceeding the applicable fee limit per year per student, in respect of English courses provided in accordance with section 4, and subsection 4A(3) provides that the regulations may prescribe different fees in relation to different classes of courses and provide for the refund, reduction or waiving of fees in cases identified in the regulations.

The purpose of the Regulations is to amend the *Immigration (Education) Regulations 1992* ('the Principal Regulations') to:

- increase the fee for prescribed English courses to reflect annual indexation; and
- waive the prescribed English course fee for holders of a *Skilled – Designated Area-sponsored (Provisional) (Class UZ) visa*.

Details of the Regulations are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commenced on 1 July 2006.

The Office of Regulation Review in the Productivity Commission has been consulted and advises that the Regulations are not likely to have a direct effect, or substantial indirect effect, on business and are not likely to restrict competition.

No other consultations were conducted in relation to the Schedule to these Regulations as the amendments were considered not to have relevant implications for any external agencies or other bodies.

ATTACHMENT**Details of the Immigration (Education) Amendment Regulations 2006 (No. 1)****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Immigration (Education) Amendment Regulations 2006 (No. 1)*.

Regulation 2 – Commencement

This regulation provides that these Regulations commence on 1 July 2006.

Regulation 3 – Amendment of Immigration (Education) Regulations 1992

This regulation provides that the *Immigration (Education) Regulations 1992* ('the Principal Regulations') are amended as set out in Schedule 1.

Schedule 1 – Amendments**Item [1] – Paragraph 4(1)(a)**

This item omits the figure \$305 in paragraph 4(1)(a) of the Principal Regulations and inserts the new figure \$315.

The effect of the amendment is to increase the fee for prescribed English courses in line with annual indexation. Indexation will result in an increase to the charge of approximately 2.67% to reflect general price movements. The amount of the increase does not exceed the applicable charge limit set out in the *Immigration (Education) Act 1971*.

Item [2] – Paragraph 4(4)(f)

This item omits paragraph 4(4)(f) of the Principal Regulations and inserts new paragraphs 4(4)(f) and 4(4)(g).

New paragraph 4(4)(f) maintains the existing paragraph 4(4)(f) which provides that the fee for a person enrolling in a prescribed English course is waived if, at the time of enrolment, the person is the holder of a *Skilled - Independent Regional (Provisional) (Class UX) visa*.

New paragraph 4(4)(g) provides that the fee for a person enrolling in a prescribed English course is waived if, at the time of enrolment, the person is the holder of a *Skilled – Designated Area-sponsored (Provisional) (Class UZ) visa*.

The effect of this amendment is to include the *Skilled – Designated Area-sponsored (Provisional) (Class UZ) visa* as a class of visa in respect of which the fee for prescribed English courses is waived.

This amendment is consequential to the introduction of the *Skilled – Designated Area-sponsored (Provisional) (Class UZ) visa* into the *Migration Regulations 1994* from 1 July 2006. This temporary (provisional) visa must be held for three years as a pre-requisite to

applying for a relevant permanent visa. During that time, holders will be able to access prescribed English courses but it is not the intention that they should pay fees in addition to the first instalment of the visa application charge already paid with the application.