

EXPLANATORY STATEMENT

Select Legislative Instrument 2007 No. 256

Issued by the Minister for Immigration and Citizenship

Immigration (Education) Act 1971

Immigration (Education) Amendment Regulations 2007 (No. 2)

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 waive the prescribed English course fee for holders of new *Subclass 475 (Skilled – Regional Sponsored)* or *Subclass 487 (Skilled – Regional Sponsored)* General Skilled Migration (GSM) provisional visas, which continues the existing arrangements for holders of current provisional GSM visas.

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 commence on 1 September 2007.

The Office of Best Practice Regulation 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 2007 (No. 2)*****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Immigration (Education) Amendment Regulations 2007 (No. 2)*.

Regulation 2 – Commencement

This regulation provides that these Regulations commence on 1 September 2007.

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(4)(g)**

This item omits the word "visa." from paragraph 4(4)(g) of the Principal Regulations, and inserts the words "visa; or". This amendment is consequential to the amendment made by item [2] of this Schedule which adds new paragraphs 4(4)(h) and 4(4)(i) in subregulation 4(4).

Item [2] – After paragraph 4(4)(g)

This item inserts new paragraphs 4(4)(h) and 4(4)(i) in subregulation 4(4) of the Principal Regulations.

New paragraph 4(4)(h) 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 *Subclass 475 (Skilled – Regional Sponsored) visa*.

New paragraph 4(4)(i) 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 *Subclass 487 (Skilled – Regional Sponsored) visa*.

The effect of these amendments is to include the *Subclass 475 (Skilled – Regional Sponsored) visa* and *Subclass 487 (Skilled – Regional Sponsored) visa* as of visas in respect of which the fee for prescribed English courses is waived.

This amendment is consequential to the introduction of the *Subclass 475 (Skilled – Regional Sponsored)(Class VF) visa* and *Subclass 487 (Skilled – Regional Sponsored)(Class VC) visa* into the *Migration Regulations 1994* from 1 September 2007. These temporary (provisional) visas 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.