

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 117

Issued by the Minister for Immigration and Citizenship

Migration Act 1958

Immigration (Education) Act 1971

Migration Legislation Amendment Regulations 2010 (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.

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

In addition regulations may be made pursuant to the provisions listed in Attachment A.

The purpose of the Regulations is to amend the *Migration Regulations 1994* (the Principal Regulations) and the *Immigration (Education) Regulations 1992* (the Education Regulations) to improve immigration policy and provide for increases in fees and charges.

In particular, the Regulations make the following amendments to the Principal Regulations and the Education Regulations to:

- implement the first stage of the repeal of the Medical Practitioner (Temporary) (Class UE) visa by providing that an application made by a person seeking to satisfy the primary criteria for the grant of a Class UE visa must be made before 1 July 2010;
- enable the collection of certain biometrics (for example, fingerprints or a photograph) from visa applicants who are lodging their applications overseas with a service delivery partner, that is, an organisation with whom an agreement is reached by the Australian Government;
- increase visa application charges and fees so that they are in line with increases to the Consumer Price Index; and
- increase the second instalment of the visa application charge for a contributory parent visa in line with the Contributory Parent Visa Composite Index.

The Regulations also amend the Education Regulations to increase the fees in line with the Consumer Price Index for prescribed English courses available to migrants and other persons under section 4 of the Education Act.

For Schedules 1 and 2 to the Regulations, the Office of Best Practice Regulation's Business Cost Calculator and Assessment Checklist were used to determine that there was no compliance cost on business or impact on competition in relation to these amendments.

For Schedules 3 and 4 to the Regulations, the Office of Best Practice Regulation's Business Cost Calculator and Assessment Checklist were used to determine that there was low or no compliance cost on business and impact on competition in relation to these amendments.

For Schedule 1 to the Regulations, the Department of Health and Ageing was consulted during the development of the amendments.

For Schedule 2 to the Regulations, no External Stakeholders were consulted in relation to these amendments.

For Schedule 3 and 4 to the Regulations, the Australian Government Actuary and the Australian Bureau of Statistics have been consulted in relation to these amendments.

Details of the Regulations are set out in Attachment B.

The Regulations will commence on 1 July 2010.

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

ATTACHMENT A

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.

Subsection 5(1) of the Act provides, amongst other things, that “prescribed” means prescribed by the *Migration Regulations 1994* (the Principal Regulations).

In addition to subsection 504(1), the following provisions of the Act may apply:

Section 40 of the Act provides the circumstances for granting visas. In particular:

- subsection 40(1) of the Act provides that the regulations may provide that visas or visas of a specified class may only be granted in specified circumstances;
- subsection 40(3) of the Act provides that without limiting subsection 40(1) (that states that the Principal Regulations may provide that visas or visas of a specified class may only be granted in specified circumstances), if prescribed circumstances exist; and the Minister has not waived the operation of this subsection in relation to granting a visa to the person; the circumstances under subsection 40(1) may be, or may include, that the person has complied with any requirement of an officer to provide one or more personal identifiers in relation to the application for the visa; and
- subsection 40(5) of the Act provides that subsection 40(4) (that states a person is taken not to have complied with the requirement referred to in subsection 40(3) unless one or more personal identifiers are provided to an authorised officer by way of one or more identification tests carried out by an authorised officer), does not apply, in circumstances prescribed for the purposes of this subsection, if the personal identifier is of a prescribed type and the person:
 - (a) provides a personal identifier otherwise than by way of an identification test carried out by an authorised officer; and
 - (b) complies with any further requirements that are prescribed relating to the provision of the personal identifier.

Section 45A of the Act provides that a non-citizen who makes an application for a visa is liable to pay a visa application charge if, assuming the charge were paid, the application would be a valid visa application.

Subsection 45B(1) of the Act provides that the amount of the visa application charge is the amount, not exceeding the visa application charge limit, prescribed in relation to the application. The visa application charge limit is determined under the *Migration (Visa Application) Charge Act 1997* (the Visa Charge Act).

Section 45C of the Act provides that the Principal Regulations may:

- provide that the visa application charge may be payable in instalments, specify how those instalments are to be calculated, and specify when instalments are payable; and
- make provision for and in relation to various matters, including the recovery of visa application charge in relation to visa applications.

Section 46 of the Act provides whether a visa application is valid. In particular:

- subsection 46(2) provides that the regulations may provide that an application for a visa is valid if it is an application for a visa of a class prescribed for the purposes of this subsection, and under the Principal Regulations, the application is taken to have been validly made;
- subsection 46(2AC) of the Act provides that the Principal Regulations may prescribe other types of personal identifiers; and may provide that a particular personal identifier referred to in subsection 46(2AA), or a particular combination of such personal identifiers, must not be required except in the circumstances prescribed for the purposes paragraph 46(2AC)(b);
- subsection 46(2C) of the Act provides that subsection 46(2B) does not apply, in circumstances prescribed for the purposes of this subsection, if the personal identifier is of a prescribed type and the applicant:
 - (a) provides a personal identifier otherwise than by way of an identification test carried out by an authorised officer; and
 - (b) complies with any further requirements that are prescribed relating to the provision of the personal identifier;
- subsection 46(2B) of the Act provides that the applicant is taken not to have complied with a requirement referred to in paragraph 46(2A)(ab) unless the one or more personal identifiers are provided by way of one or more identification tests carried out by an authorised officer; and
- subsection 46(3) provides that the regulations may prescribe criteria that must be satisfied for an application for a visa of a specified class to be a valid application.

Section 4 of the Visa Charge Act imposes a visa application charge payable under section 45A of the Act.

Section 5 of the Visa Charge Act limits the visa application charge and provides the formula to calculate the charge limit for later financial years. The charge limit is calculated by multiplying the charge limit for the financial year before the later year by the greater of 1.0 or the indexation factor. This indexation factor is calculated using the index number, which means the All Groups Consumer Price Index number (being the weighted average of the eight capital cities) published by the Australian Statistician, according to the formula provided in subsection 5(2).

Section 6 of the Visa Charge Act sets the charge limit in relation to a visa application for a contributory parent visa and provides a formula to calculate the charge limit for later financial years. The charge limit is set by reference to the Contributory Parent Visa Composite Index, which is published by the Australian Government Actuary for a financial year.

Subsection 4A(1) of the *Immigration (Education) Act 1971* (the Education Act) 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 (the applicable fee limit in respect of a course is worked out in accordance with the formula in subsection 4A(3A) of the Education Act).

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

ATTACHMENT B**Details of the Migration Legislation Amendment Regulations 2010 (No. 1)****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Migration Legislation Amendment Regulations 2010 (No. 1)* (the Regulations).

Regulation 2 - Commencement

This regulation provides for the Regulations to commence on 1 July 2010.

Regulation 3 – Amendment of Migration Regulations 1994 – Schedule 1

Subregulation 3(1) provides that Schedule 1 to the Regulations amends the *Migration Regulations 1994* (the Principal Regulations).

Subregulation 3(2) provides that the amendments made by Schedule 1 apply in relation to a visa application made on or after 1 July 2010.

Regulation 4 – Amendment of Migration Regulations 1994 – Schedule 2

Subregulation 4(1) provides that Schedule 2 to the Regulations amends the Principal Regulations.

Subregulation 4(2) provides that the amendments made by Schedule 2 apply in relation to an application for a visa: (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2010; or (b) made on or after 1 July 2010.

Regulation 5 – Amendment of Migration Regulations 1994 – Schedule 3

Subregulation 5(1) provides that Schedule 3 to the Regulations amends the Principal Regulations.

Subregulation 5(2) provides that the amendment made by Schedule 3 apply in relation to a matter for which an obligation to pay a fee or charge is incurred on or after 1 July 2010.

Regulation 6 – Amendment of Immigration (Education) Regulations 1992 - Schedule 4

Subregulation 6(1) provides that Schedule 4 amends the *Immigration (Education) Regulations 1992* (the Education Regulations).

Subregulation 6(2) provides that the amendment made by Schedule 4 apply in relation to an enrolment in a prescribed English course on or after 1 July 2010.

Schedule 1 – Amendments relating to Subclass 422 visas

Item [1] – Schedule 1, heading, except the note

This item substitutes the heading to Schedule 1, except the note, with a new heading to Schedule 1 to the Principal Regulations.

Formerly the heading to Schedule 1 was “Schedule 1 Classes of visas (regulations 2.02 and 2.07)”. The new heading provides “Schedule 1 Classes of visa (regulations 2.01 and 2.07)”. The former reference to regulation 2.02 was incorrect as this regulation relates to subclasses of visas as listed in Schedule 2. Regulation 2.01, which is referenced in the new heading, relates to the classes of visas created pursuant to section 31 of the *Migration Act 1958* (the Act).

This is a technical amendment to rectify an incorrect reference to “regulation 2.02” in the heading to Schedule 1 to the Principal Regulations with the correct reference to “regulation 2.01”.

Item [2] – Schedule 1, after paragraph 1214AA(3)(c)

This item inserts a new paragraph 1214AA(3)(d) in item 1214AA of Schedule 1 to the Principal Regulations.

Item 1214AA sets out the criteria to make a valid application for a Medical Practitioner (Temporary) (Class UE) visa.

New paragraph 1214AA(3)(d) provides that an application by a person seeking to satisfy the primary criteria for the grant of a Subclass 422 (Medical Practitioner) visa must be made before 1 July 2010.

This amendment implements the first stage of the repeal of the Medical Practitioner (Temporary) Class (UE) visa, by preventing applications by persons seeking to satisfy the primary criteria for the Subclass 422 (Medical Practitioner) visa on or after 1 July 2010. Applicants seeking to satisfy the secondary criteria for the Subclass 422 (Medical Practitioner) visa continue to be able to make a valid application on or after 1 July 2010 if the applicant is a member of the family unit of a person who was seeking to satisfy the primary criteria for a Subclass 422 (Medical Practitioner) visa and made a valid application for the Medical Practitioner (Temporary) (Class UE) visa before 1 July 2010.

This amendment follows changes to the Subclass 457 (Business (Long Stay)) visa made on 14 September 2009. As part of those changes, the Subclass 457 (Business (Long Stay)) visa program was extended to allow international medical graduates and doctors who intend to practice medicine in Australia to enter on the Subclass 457 (Business (Long Stay)) visa. This amendment also supports the Australian Government’s deregulation agenda.

Item [3] – Schedule 2, Division 422.2, heading, note

This item substitutes the note to Division 422.2 of Part 422 of Schedule 2 to the Principal Regulations with a new note.

The note to the heading of Division 422.2 of Part 422 of Schedule 2 to the Principal Regulations formerly provided that “The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass, need satisfy only the secondary criteria.”

The new note to Division 422.2 explains that the primary criteria must be satisfied by at least one member of a family unit. The person seeking to satisfy the primary criteria must make a valid application for the visa before 1 July 2010 and the other members of the family unit who are applicants for a visa of this subclass only need to satisfy the secondary criteria.

This amendment ensures that the effect of the amendment made by item [2] is explained in the note to Division 422.2 of Part 422 of Schedule 2 to the Principal Regulations.

Item [4] – Schedule 2, Division 422.3, heading, note

This item omits “satisfies the primary criteria.” and inserts “satisfies the primary criteria on the basis of an application made before 1 July 2010.” in the note to Division 422.3 of Part 422 of Schedule 2 to the Principal Regulations.

The note to the heading of Division 422.3 formerly provided that “The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.”

The new note explains that the secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria in connection with a valid application made before 1 July 2010.

This amendment ensures that the effect of the amendment made by item [2] is explained in the note to Division 422.3 of Part 422 of Schedule 2 to the Principal Regulations.

Item [5] – Schedule 2, clause 422.311

This item substitutes clause 422.311 with new clause 422.311 of Division 422.3 of Part 422 of Schedule 2 to the Principal Regulations.

Clause 422.311 formerly provided that “The applicant is a member of the family unit of a person who has applied for a Subclass 422 visa.”

New clause 422.311 provides that the applicant seeking to satisfy the secondary criteria for the grant of a Subclass 422 (Medical Practitioner) visa must be the member of the family unit of a person who applied for a Subclass 422 (Medical Practitioner) visa before 1 July 2010.

This amendment provides that a person who seeks to satisfy the secondary criteria for the grant of a Subclass 422 (Medical Practitioner) visa must be a member of the family unit of a person who made a valid application for a Subclass 422 visa before 1 July 2010.

Schedule 2 – Amendments relating to personal identifiers

Item [1] – Regulation 1.03, after definition of *person designated under regulation 2.07AO*

This item inserts a new definition of “personal identifier” in regulation 1.03 in Division 1.2 of Part 1 to the Principal Regulations. This new definition provides that *personal identifier* has the meaning given by section 5A of the Act.

This amendment is a technical amendment that incorporates the definition of “personal identifier” in section 5A of the Act.

Item [2] – Paragraphs 2.04(1)(a) and (b)

This amendment inserts “or (4)” after “subregulation (2)” in paragraphs 2.04(1)(a) and (b) of Division 2.1 of Part 2 to the Principal Regulations.

This amendment is consequential to the amendment at item [3].

Item [3] – Subregulations 2.04(2), (3) and (4)

This item substitutes subregulations 2.04(2), (3) and (4) of Division 2.1 of Part 2 to the Principal Regulations.

Subregulation 2.04(2) formerly prescribed circumstances for the purposes of paragraph 40(3)(a) of the Act.

Section 40 of the Act provides for circumstances for granting visas, and that the Principal Regulations may provide that visas of a specified class may only be granted in specified circumstances. Paragraph 40(3)(a) of the Act provides that if prescribed circumstances exist, subsection 40(3) of the Act provides that the circumstances may be, or may include, that the person has complied with any requirement of an officer to provide one or more personal identifiers in relation to the application for the visa.

The prescribed circumstances for the purposes of paragraph 40(3)(a) were that a person is an applicant for a Protection (Class XA) visa, a Refugee and Humanitarian (Class XB) visa, or a Temporary Safe Haven (Class UJ) visa.

Subsection 40(4) of the Act provides that a person is taken not to have complied with a requirement to be granted a visa unless one or more personal identifiers are provided to an authorised officer by way of one or more identification tests carried out by an authorised officer.

Subsection 40(5) of the Act provides that subsection 40(4) of the Act does not apply in prescribed circumstances and the circumstances where personal identifiers can be provided by an applicant otherwise than by a test carried out by an authorised officer.

Subregulation 2.04(3) formerly prescribed circumstances for the purposes of subsection 40(5) of the Act. For subsection 40(5) of the Act, the prescribed circumstances were that the person is an applicant for a visa that is a Protection (Class XA) visa, a Refugee and Humanitarian (Class XB) visa, or a Temporary Safe Haven (Class UJ) visa.

Subregulation 2.04(4) formerly provided that for subsection 40(5) of the Act, a photograph or other image of the applicant's face and shoulders and the applicant's signature were prescribed.

This amendment :

- substitutes former subregulations 2.04(2) and (3) with a new subregulation 2.04(2). This new subregulation consolidates former subregulations 2.04(2) and (3) into the one subregulation. The reason for this consolidation is that while former subregulations 2.04(2) and (3) related to different provisions of the Act, they covered the same circumstances, those being that a person is an applicant for a Protection (Class XA) visa or a Temporary Safe Haven (Class UJ) visa, and the applicant is in Australia at the time of application;
- substitutes former subregulation 2.04(4) with a new subregulation 2.04(3). This new subregulation applies to a person who is an applicant for a Protection (Class XA) visa or a Temporary Safe Haven (Class UJ) visa where the applicant is in Australia at the time of application, and prescribes that a photograph or other image of the applicant's face and shoulders, and the applicant's signature are prescribed personal identifiers;
- inserts a new subregulation 2.04(4). This new subregulation provides that, for paragraph 40(3)(a) and subsection 40(5) of the Act, a circumstance is that a person is an applicant for a visa and is not in Australia at the time of application. This amendment prescribes those circumstances for the purposes of paragraph 40(3)(c) and subsection 40(5) of the Act; and
- inserts a new subregulation 2.04(5). This new subregulation provides that for subsection 40(5) of the Act, fingerprints of a person (including those taken using paper and ink or digital liveness scanning technologies) and a photograph or other image of the applicant's face and shoulders are prescribed types of personal identifier for the circumstance mentioned in new subregulation 2.04(4). This amendment prescribes that the stated personal identifiers can be provided by an applicant otherwise than by way of an identification test carried out by an authorised officer.

Item [4] Regulation 2.08AC, including the note

This item substitutes regulation 2.08AC including the note of Division 2.2 of Part 2 to the Principal Regulations.

This amendment provides that certain types of personal identifiers must not be required except in prescribed circumstances and the circumstances where personal identifiers can be provided by an applicant otherwise than by a test carried out by an authorised officer.

Regulation 2.08AC, made under subsection 46(2C) of the Act allowed applicants for a visa other than for a bridging visa or a Witness Protection (Trafficking) (Permanent) (Class DH) visa to provide a photograph or other image of their face and shoulders, or their signature, without the need for an identification test carried out by an authorised officer under subsection 46(2B) of the Act. Section 46 of the Act provides for the conditions for making a valid visa application.

Subsection 46(2A) of the Act provides that an application for a visa is invalid if: (a) prescribed circumstances exist; and (aa) the operation of subsection 46(2A) has not been waived in relation to the application; and (ab) the applicant has been required by an officer to provide one or more personal identifiers in relation to the application; and (b) the applicant has not complied with that requirement.

Subsection 46(2B) of the Act provides that the applicant for the visa referred to in subsection 46(2A) is taken not to have complied with a requirement referred to in paragraph 46(2A)(ab) unless the one or more personal identifiers are provided by way of one or more identification tests carried out by an authorised officer.

Subsection 46(2C) of the Act provides, however, subsection 46(2B) does not apply, in circumstances prescribed for the purposes of subsection 46(2C), if the personal identifier is of a prescribed type and the applicant: (a) provides a personal identifier otherwise than by way of an identification test carried out by an authorised officer; and (b) complies with any further requirements that are prescribed relating to the provision of the personal identifier.

New regulation 2.08AC is made under subsections 46(2AC) and (2C) of the Act.

New subregulation 2.08AC(1) provides that, for paragraph 46(2AC)(a) of the Act, fingerprints of a person (including those taken using paper and ink or digital liveness scanning technologies) are prescribed.

New subregulation 2.08AC(2) provides that for paragraph 46(2AC)(b) of the Act, a personal identifier must not be required if:

- (a) the personal identifier is:
 - (i) fingerprints of a person (including those taken using paper and ink or digital livescanning technologies); or
 - (ii) a photograph or other image of the applicant's face and shoulders; and
- (b) the circumstance is that:
 - (i) the application is for a bridging visa or a Witness Protection (Trafficking) (Permanent) (Class DH) visa; and
 - (ii) the applicant is outside Australia at the time of application.

New subregulation 2.08AC(3) provides that for subsection 46(2C) of the Act: (a) a circumstance is that the application is for a visa other than a bridging visa or a Witness Protection (Trafficking) (Permanent) (Class DH) visa; and (b) a personal identifier is (i) a photograph or other image of the applicant's face and shoulders; or the applicant's signature.

New subregulation 2.08AC(4) provides that for subsection 46(2C) of the Act:

- (a) a circumstance is that:
 - (i) the application:
 - (A) is not an application for a bridging visa that is made by an applicant who is outside Australia at the time of application; and
 - (B) is not an application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa that is made by an applicant who is outside Australia at the time of application; and
 - (ii) the personal identifier mentioned in paragraph (b) is to be provided at a place specified by the Minister in an instrument in writing for this subparagraph; and
- (b) a personal identifier is:
 - (i) fingerprints of a person (including those taken using paper and ink or digital livescanning technologies); or
 - (ii) a photograph or other image of the applicant's face and shoulders.

The new note at the end of regulation 2.08AC provides that: (a) section 46 of the Act sets out the conditions for a valid visa application; and (b) subsection 46(2C) provides that, in prescribed circumstances, prescribed types of personal identifiers may be provided by an applicant otherwise than by way of an identification test carried out by an authorised officer (in accordance with subsection 46(2B) of the Act), if the applicant complies with any requirements that are prescribed relating to the provision of the personal identifier.

Schedule 3 – Amendments relating to fees and charges – Migration Regulations 1994

Item [1] - Amendments

The amendments in this item amend Parts 2A and 5 of, and Schedule 1 to, the Principal Regulations to provide for the annual indexation of specified fees and charges.

These amendments result in an increase to most fees and charges of 1.8% per cent in line with the Consumer Price Index (CPI). All increases are 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; and
- 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 the items that amend visa application charges do not exceed the applicable charge limit set out in the *Migration (Visa Application) Charge Act 1997* (the Visa Charge Act). The amendments to fees do not exceed the cost to the Commonwealth for providing the service.

A table of the amendments to the relevant fees and charges is set out below.

Visa application charges for Resident Return visas (Subclasses 155 (Five Year Resident Return) and 157 (Three Month Resident Return)) will not be increased in the 2010-11 financial year.

Fees relating to Part 2A (Sponsorship applicable to Division 3A of Part 2 of the Act) to the Principal Regulations

Fee	Provision	Omit	Insert
Application for approval as a sponsor	subregulation 2.61(2), table, item 1, column 4	\$345	\$350
	subregulation 2.61(2), table, item 2, column 4	\$345	\$350
	subregulation 2.61(2), table, item 4, column 4	\$1,370	\$1,395
	subregulation 2.61(2), table, item 5, column 4	\$345	\$350
Process to apply for variation of terms of approval – standard business sponsor	subregulation 2.66(4)	\$345	\$350
Process to apply for variation of terms of approval – temporary work sponsor	paragraph 2.66A(2)(a)	\$345	\$350
Process for nomination – various visas	paragraph 2.73A(4)(a)	\$2,800	\$2,850
	paragraph 2.73A(4)(b)	\$140	\$145
Process for nomination – Subclass 420 (Entertainment) visa and Subclass 423 (Media and Film Staff) visa	paragraph 2.73B(4)(a)	\$2,800	\$2,850
	paragraph 2.73B(4)(b)	\$140	\$145
Process for nomination – Subclass 421 (Sport) visa	paragraph 2.73C(4)(a)	\$2,800	\$2,850
	paragraph 2.73C(4)(b)	\$140	\$145

Fees relating to Part 5 (Miscellaneous) to the Principal Regulations

Fee	Provision	Omit	Insert
Employer nomination fee	subregulation 5.37(1)	\$445	\$455
Sponsorship fee	paragraph 5.38(2)(a)	\$3,300	\$3,350
	paragraph 5.38(2)(b)	\$330	\$335

Visa Application Charges relating to Schedule 1 (Classes of visas) to the Principal Regulations

Visa Application Charge	Provision	Omit	Insert
Business Skills – Business Talent (Migrant) (Class EA)	paragraph 1104AA(2)(a)	\$4,905	\$4,995
	sub-subparagraph 1104AA(2)(b)(i)(C)	\$7,040	\$7,165
	sub-subparagraph 1104AA(2)(b)(ii)(C)	\$3,510	\$3,575
Business Skills – Established Business (Residence) (Class BH)	paragraph 1104A(2)(a)	\$4,905	\$4,995
	sub-subparagraph 1104A(2)(b)(i)(C)	\$7,040	\$7,165
	sub-subparagraph 1104A(2)(b)(ii)(C)	\$3,510	\$3,575
Business Skills (Residence) (Class DF)	subparagraph 1104B(2)(a)(i)	\$230	\$235
	subparagraph 1104B(2)(a)(ii)	\$1,410	\$1,435
	sub-subparagraph 1104B(2)(b)(i)(E)	\$3,510	\$3,575
Child (Migrant) (Class AH)	subparagraph 1108(2)(a)(ii)	\$1,040	\$1,060
	subparagraph 1108(2)(a)(iii)	\$1,705	\$1,735
Child (Residence) (Class BT)	subparagraph 1108A(2)(a)(ii)	\$1,040	\$1,060
	subparagraph 1108A(2)(a)(v)	\$2,525	\$2,575
Confirmatory (Residence) (Class AK)	subparagraph 1111(2)(a)(i)	\$195	\$200
Distinguished Talent (Migrant) (Class AL)	paragraph 1112(2)(a)	\$1,705	\$1,735
	subparagraph 1112(2)(b)(i)	\$3,510	\$3,575
Distinguished Talent (Residence) (Class BX)	paragraph 1113(2)(a)	\$2,525	\$2,575
	subparagraph 1113(2)(b)(i)	\$3,510	\$3,575

Visa Application Charge	Provision	Omit	Insert
Employer Nomination (Migrant) (Class AN)	subparagraph 1114(2)(a)(iii)	\$1,705	\$1,735
	sub-subparagraph 1114(2)(b)(i)(C)	\$7,040	\$7,165
	sub-subparagraph 1114(2)(b)(ii)(C)	\$3,510	\$3,575
	subparagraph 1114(2)(b)(iv)	\$1,660	\$1,690
Employer Nomination (Residence) (Class BW)	sub-subparagraph 1114A(2)(a)(ii)(C)	\$230	\$235
	subparagraph 1114A(2)(a)(v)	\$2,525	\$2,575
	sub-subparagraph 1114A(2)(b)(i)(C)	\$7,040	\$7,165
	sub-subparagraph 1114A(2)(b)(ii)(C)	\$3,510	\$3,575
	sub-sub-subparagraph 1114A(2)(b)(iv)(D)(III)	\$3,510	\$3,575
Special Eligibility (Class CB)	subparagraph 1118A(2)(a)(i)	\$2,525	\$2,575
	subparagraph 1118A(2)(a)(ii)	\$1,705	\$1,735
	subparagraph 1118A(2)(b)(i)	\$3,510	\$3,575
Independent (Migrant) (Class AT)	paragraph 1120(2)(a)	\$1,060	\$1,080
	subparagraph 1120(2)(b)(i)	\$2,275	\$2,315
Labour Agreement (Migrant) (Class AU)	subparagraph 1121(2)(a)(iii)	\$1,705	\$1,735
	sub-subparagraph 1121(2)(b)(i)(C)	\$7,040	\$7,165
	sub-subparagraph 1121(2)(b)(ii)(C)	\$3,510	\$3,575
	subparagraph 1121(2)(b)(v)	\$1,660	\$1,690
Labour Agreement (Residence) (Class BV)	subparagraph 1121A(2)(a)(iv)	\$2,525	\$2,575
	sub-subparagraph 1121A(2)(b)(i)(C)	\$7,040	\$7,165
	sub-subparagraph 1121A(2)(b)(ii)(C)	\$3,510	\$3,575

Visa Application Charge	Provision	Omit	Insert
Other Family (Migrant) (Class BO)	subparagraph 1123A(2)(a)(i)	\$1,040	\$1,060
	subparagraph 1123A(2)(a)(ii)	\$1,705	\$1,735
	subparagraph 1123A(2)(b)(ii)	\$1,480	\$1,510
Other Family (Residence) (Class BU)	subparagraph 1123B(2)(a)(i)	\$1,040	\$1,060
	subparagraph 1123B(2)(a)(ii)	\$2,525	\$2,575
	subparagraph 1123B(2)(b)(ii)	\$1,480	\$1,510
Parent (Migrant) (Class AX)	paragraph 1124(2)(a)	\$1,705	\$1,735
	paragraph 1124(2)(b)	\$1,480	\$1,510
Aged Parent (Residence) (Class BP)	paragraph 1124A(2)(a)	\$2,525	\$2,575
	paragraph 1124A(2)(b)	\$1,480	\$1,510
Partner (Residence) (Class BS)	subparagraph 1124B(2)(a)(ii)	\$295	\$300
	sub-subparagraph 1124B(2)(a)(iii)(D)	\$1,040	\$1,060
	sub-subparagraph 1124B(2)(a)(iv)(C)	\$1,040	\$1,060
	sub-subparagraph 1124B(2)(a)(v)(C)	\$825	\$840
	sub-subparagraph 1124B(2)(a)(vi)(D)	\$1,040	\$1,060
	subparagraph 1124B(2)(a)(vii)	\$2,525	\$2,575
Skill Matching (Migrant) (Class BR)	subparagraph 1128AA(2)(b)(i)	\$2,465	\$2,505
	subparagraph 1128AA(2)(b)(ii)	\$3,510	\$3,575
Skilled – Australian Linked (Migrant) (Class AJ)	paragraph 1128A(2)(a)	\$1,090	\$1,110
	subparagraph 1128A(2)(b)(i)	\$2,340	\$2,380
Skilled – Australian - sponsored (Migrant) (Class BQ)	subparagraph 1128B(2)(a)(ii)	\$2,525	\$2,575
	subparagraph 1128B(2)(b)(i)	\$3,510	\$3,575

Visa Application Charge	Provision	Omit	Insert
Skilled – Australian - sponsored Overseas Student (Residence) (Class DE)	paragraph 1128BA(2)(a)	\$2,525	\$2,575
	subparagraph 1128BA(2)(b)(i)	\$3,510	\$3,575
Skilled – Independent (Migrant) (Class BN)	subparagraph 1128C(2)(a)(ii)	\$230	\$235
	subparagraph 1128C(2)(a)(iii)	\$2,525	\$2,575
	subparagraph 1128C(2)(b)(i)	\$3,510	\$3,575
Skilled – Independent Overseas Student (Residence) (Class DD)	paragraph 1128CA(2)(a)	\$2,525	\$2,575
	subparagraph 1128CA(2)(b)(i)	\$3,510	\$3,575
Skilled – New Zealand Citizen (Residence) (Class DB)	paragraph 1128D(2)(a)	\$2,525	\$2,575
	subparagraph 1128D(2)(b)(i)	\$3,510	\$3,575
Partner (Migrant) (Class BC)	subparagraph 1129(2)(a)(ii)	\$1,705	\$1,735
Contributory Parent (Migrant) (Class CA)	subparagraph 1130(2)(a)(i)	\$230	\$235
	sub-subparagraph 1130(2)(a)(ia)(B)	\$230	\$235
	subparagraph 1130(2)(a)(ib)	\$230	\$235
	subparagraph 1130(2)(a)(ic)	\$1,705	\$1,735
	subparagraph 1130(2)(a)(iii)	\$1,705	\$1,735
Contributory Aged Parent (Residence) (Class DG)	subparagraph 1130A(2)(a)(ii)	\$230	\$235
	sub-subparagraph 1130A(2)(a)(iia)(B)	\$230	\$235
	subparagraph 1130A(2)(a)(iib)	\$230	\$235
	subparagraph 1130A(2)(a)(iic)	\$2,525	\$2,575
	subparagraph 1130A(2)(a)(iii)	\$2,525	\$2,575

Visa Application Charge	Provision	Omit	Insert
Skilled – Designated Area-sponsored (Residence) (Class CC)	paragraph 1134(2)(a)	\$230	\$235
	sub-subparagraph 1134(2)(b)(i)(D)	\$3,510	\$3,575
	sub-subparagraph 1134(2)(b)(ii)(C)	\$3,510	\$3,575
Skilled (Migrant) (Class VE)	paragraph 1135(2)(a)	\$2,525	\$2,575
	sub-subparagraph 1135(2)(b)(i)(B)	\$3,510	\$3,575
Skilled (Residence) (Class VB)	sub-sub-subparagraph 1136(2)(a)(i)(E)(II)	\$230	\$235
	subparagraph 1136(2)(a)(ii)	\$2,525	\$2,575
	sub-subparagraph 1136(2)(b)(i)(C)	\$3,510	\$3,575
Business Skills (Provisional) (Class UR)	paragraph 1202A(2)(a)	\$3,360	\$3,420
	sub-subparagraph 1202A(2)(b)(i)(C)	\$7,040	\$7,165
	sub-subparagraph 1202A(2)(b)(ii)(C)	\$3,510	\$3,575
Cultural / Social (Temporary) (Class TE)	subparagraph 1205(2)(a)(iv)	\$2,600	\$2,650
	subparagraph 1205(2)(a)(iva)	\$2,600	\$2,650
	subparagraph 1205(2)(a)(v)	\$260	\$265
Domestic Worker (Temporary) (Class TG)	paragraph 1207(2)(a)	\$260	\$265
Educational (Temporary) (Class TH)	subparagraph 1208(2)(a)(ii)	\$260	\$265
Graduate – Skilled (Temporary) (Class UQ)	paragraph 1212A(2)(a)	\$230	\$235
Investor Retirement (Class UY)	paragraph 1212B(2)(a)	\$230	\$235
	paragraph 1212B(2)(b)	\$10,440	\$10,625
Medical Practitioner (Temporary) (Class UE)	paragraph 1214AA(2)(a)	\$260	\$265
Medical Treatment (Visitor) (Class UB)	subparagraph 1214A(2)(a)(ii)	\$225	\$230

Visa Application Charge	Provision	Omit	Insert
New Zealand Citizen Family Relationship (Temporary) (Class UP)	paragraph 1214BA(2)(a)	\$230	\$235
Prospective Marriage (Temporary) (Class TO)	paragraph 1215(2)(a)	\$1,705	\$1,735
Resolution of Status (Temporary) (Class UH)	subparagraph 1216A(2)(a)(ii)	\$2,900	\$2,955
	sub-subparagraph 1216A(2)(b)(i)(D)	\$6,415	\$6,530
	sub-subparagraph 1216A(2)(b)(ii)(D)	\$3,215	\$3,275
	sub-subparagraph 1216A(2)(b)(iii)(C)	\$3,215	\$3,275
Retirement (Temporary) (Class TQ)	subparagraph 1217(2)(a)(ii)	\$260	\$265
Tourist (Class TR)	sub-subparagraph 1218(2)(a)(ii)(B)	\$250	\$255
Skilled – Independent Regional (Provisional) (Class UX)	subparagraph 1218A(2)(a)(i)	\$230	\$235
	subparagraph 1218A(2)(a)(ii)	\$230	\$235
	subparagraph 1218A(2)(a)(iii)	\$2,525	\$2,575
	sub-subparagraph 1218A(2)(b)(i)(D)	\$3,510	\$3,575
	sub-subparagraph 1218A(2)(b)(ii)(C)	\$3,510	\$3,575
Sponsored Training (Temporary) (Class UV)	paragraph 1220B(2)(a)	\$260	\$265
Contributory Parent (Temporary) (Class UT)	subparagraph 1221(2)(a)(iii)	\$1,705	\$1,735
Contributory Aged Parent (Temporary) (Class UU)	subparagraph 1221A(2)(a)(iii)	\$2,525	\$2,575
Student (Temporary) (Class TU)	subparagraph 1222(2)(a)(ii)	\$70	\$75
	subparagraph 1222(2)(a)(iv)	\$540	\$550
Temporary Business Entry (Class UC)	subparagraph 1223A(2)(a)(iii)	\$260	\$265
Work and Holiday (Temporary) (Class US)	paragraph 1224A(2)(a)	\$230	\$235

Visa Application Charge	Provision	Omit	Insert
Working Holiday (Temporary) (Class TZ)	subitem 1225(2)	\$230	\$235
Skilled – Designated Area-sponsored (Provisional) (Class UZ)	subparagraph 1226(2)(a)(ii)	\$230	\$235
	subparagraph 1226(2)(a)(iii)	\$2,525	\$2,575
	sub-subparagraph 1226(2)(b)(i)(D)	\$3,510	\$3,575
	sub-subparagraph 1226(2)(b)(ii)(C)	\$3,510	\$3,575
Skilled (Provisional) (Class VF)	subparagraph 1228(2)(a)(i)	\$2,525	\$2,575
	subparagraph 1228(2)(a)(ii)	\$230	\$235
	sub-subparagraph 1228(2)(b)(i)(C)	\$3,510	\$3,575
Skilled (Provisional) (Class VC)	subparagraph 1229(2)(a)(i)	\$230	\$235
	sub-subparagraph 1229(2)(a)(ii)(D)	\$230	\$235
	subparagraph 1229(2)(a)(iii)	\$2,525	\$2,575
	sub-subparagraph 1229(2)(b)(i)(D)	\$3,510	\$3,575
Bridging B (Class WB)	paragraph 1302(2)(a)	\$90	\$95

Visa Application Charges Second Instalment for Contributory Parent and Aged Parent Visas

The second instalments of the visa application charge for Contributory Parent and Contributory Aged Parent visas increase in accordance with the Contributory Parent Visa Composite Index, calculated by the Australian Government Actuary, which is 10.6 per cent for the 2010-11 financial year.

A table of these amendments is set out below.

The amount of the increase in these items does not exceed the applicable charge limit set out in the Visa Charge Act.

Visa Application Charge	Provision	Omit	Insert
Contributory Parent	subparagraph 1130(2)(b)(i)	\$13,730	\$15,185

(Migrant) (Class CA)	sub-sub-subparagraph 1130(2)(b)(ia)(A)(III)	\$13,730	\$15,185
	subparagraph 1130(2)(b)(iia)	\$13,730	\$15,185
	subparagraph 1130(2)(b)(iib)	\$12,430	\$13,745
	sub-subparagraph 1130(2)(b)(iii)(B)	\$1,485	\$1,640
	subparagraph 1130(2)(b)(iv)	\$34,330	\$37,965
Contributory Aged Parent (Residence) (Class DG)	subparagraph 1130A(2)(b)(i)	\$13,730	\$15,185
	sub-sub-subparagraph 1130A(2)(b)(ia)(A)(III)	\$13,730	\$15,185
	subparagraph 1130A(2)(b)(iia)	\$13,730	\$15,185
	subparagraph 1130A(2)(b)(iib)	\$11,700	\$12,940
	sub-subparagraph 1130A(2)(b)(iii)(B)	\$1,485	\$1,640
	subparagraph 1130A(2)(b)(iv)	\$34,330	\$37,965
Contributory Parent (Temporary) (Class UT)	sub-subparagraph 1221(2)(b)(i)(B)	\$1,485	\$1,640
	subparagraph 1221(2)(b)(iii)	\$20,595	\$22,780
Contributory Aged Parent (Temporary) (Class UU)	sub-subparagraph 1221A(2)(b)(i)(B)	\$1,485	\$1,640
	subparagraph 1221A(2)(b)(iii)	\$20,595	\$22,780

Schedule 4 – Amendment relating to fees – Immigration (Education) Regulations 1992

Item [1] – Paragraph 4(1)(a)

This item amends paragraph 4(1)(a) of the *Immigration (Education) Regulations 1992* (the Education Regulations) to provide for the annual indexation of the prescribed fee for a formal course provided in accordance with section 4 of the *Immigration (Education) Act 1971* (the Education Act).

Section 4 of the Education Act provides that the Minister for Immigration and Citizenship may arrange for English courses to be provided for persons intending to migrate to Australia and to persons in Australia, including Australian permanent residents, specified temporary visa holders and New Zealand citizens who hold a special category visa.

The fee for the 2010-11 financial year increases from \$400 to \$410. This indexation results in an increase to the charge of approximately 1.8 per cent, in line with the CPI.

The increase does not cause the applicable fee limit set out in subsection 4A(3A) of the Education Act to be exceeded.