



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

This compilation was prepared on 1 July 2009
taking into account amendments up to SLI 2009 No. 144

The text of any of those amendments not in force
on that date is appended in the Notes section

**[Note: Regulation 2.12A ceases to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains the Notes and Tables A and B
Each volume has its own Table of Contents

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Part 1 Preliminary

Division 1.1 Introductory

1.01 Name of Regulations [see Note 1]

These Regulations are the *Migration Regulations 1994*.

1.02 Commencement

These Regulations commence on 1 September 1994.

Division 1.2 Interpretation

Note This Division sets out definitions that apply to the Regulations as a whole. Elsewhere in the Regulations there may be definitions that have more limited application. A term defined in section 5 of the Act has the same meaning in the Regulations, in the absence of a contrary intention.

1.03 Definitions

In these Regulations, unless the contrary intention appears:

academic year means a period that is specified by the Minister as an academic year in an instrument in writing for this definition.

ACCESS test means the Australian Assessment of Communicative English Skills test.

adoption has the meaning set out in regulation 1.04.

Note ***adopt*** and ***adopted*** have corresponding meanings: see *Acts Interpretation Act 1901*, section 18A.

adoption compliance certificate means an adoption compliance certificate within the meaning of the *Family Law (Bilateral Arrangements — Intercountry Adoption) Regulations 1998* or the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*.

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Adoption Convention means the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption signed at The Hague on 29 May 1993.

Note The text of the Adoption Convention is set out in Schedule 1 to the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*.

Adoption Convention country means a country that is a Convention country under the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*.

aged dependent relative, in relation to a person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen, means a relative who:

- (a) does not have a spouse or de facto partner; and
- (b) has been dependent on that person for a reasonable period, and remains so dependent; and
- (c) is old enough to be granted an age pension under the *Social Security Act 1991*.

aged parent means a parent who is old enough to be granted an age pension under the *Social Security Act 1991*.

aircraft safety inspector means a person who:

- (a) is employed by a foreign government to inspect the safety procedures of international air carriers or the safety of aircraft; and
- (b) travels to Australia on an aircraft in the course of that employment; and
- (c) will depart Australia on an aircraft in the course of that employment or as a passenger.

airline crew member means:

- (a) a person who:
 - (i) is employed by an international air carrier as an aircrew member; and
 - (ii) travels to Australia in the course of his or her employment as a member of the crew of an aircraft; and
 - (iii) will depart Australia in the course of his or her employment as a member of the crew of, or a passenger on, an aircraft; or

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(b) an aircraft safety inspector.

airline positioning crew member means a person who:

- (a) is employed by an international air carrier as an aircrew member; and
- (b) travels to Australia in the course of his or her employment as a passenger on an aircraft; and
- (c) will depart Australia as a member of the crew of an aircraft.

APEC means Asia-Pacific Economic Co-operation.

APEC economy means each of the following:

- (a) Australia;
- (b) Brunei Darussalam;
- (c) Canada;
- (d) Chile;
- (e) PRC;
- (f) Hong Kong;
- (g) Indonesia;
- (h) Japan;
- (i) the Republic of Korea;
- (j) Malaysia;
- (k) Mexico;
- (l) New Zealand;
- (m) Papua New Guinea;
- (n) Peru;
- (o) the Republic of the Philippines;
- (p) the Russian Federation;
- (q) Singapore;
- (r) Taiwan;
- (s) Thailand;
- (t) the United States of America;
- (u) Vietnam.

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appropriate regional authority, in relation to a State or Territory and applications for visas of a particular class, means a Department or authority of that State or Territory that is specified by Gazette Notice, for the purposes of these Regulations, in relation to the grant of visas of that class.

approved appointment means a nominated position that is approved under subregulation 5.19 (1B).

approved form means a form approved by the Minister under section 495 of the Act or regulation 1.18, and a reference to an approved form by number is a reference to the form so approved and numbered.

approved professional development sponsor means an organisation that has been approved as a professional development sponsor under subsection 140E (1) of the Act and on the terms specified in regulation 1.20O.

approved special student sponsor means a person or an organisation that has been approved as a special student sponsor under regulation 1.20UD.

Asia-Pacific forces member means a person who:

- (a) is a member of the armed forces of Brunei, Fiji, Malaysia, Thailand or Tonga; and
- (b) is travelling to Australia, or is in Australia, in the course of his or her duty; and
- (c) holds military identity documents and movement orders issued from an official source of the relevant country.

assessment level, in relation to a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, means the level of assessment (being level 1, 2, 3, 4 or 5) specified under Division 1.8 for a kind of eligible passport, within the meaning of regulation 1.40, and for an education sector.

assurance of support, in relation to an application for the grant of a visa, means:

- (a) for an assurance of support accepted by the Minister before 1 July 2004 — an assurance of support under Division 2.7; and
- (b) in any other case — an assurance of support under Chapter 2C of the *Social Security Act 1991*.

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AUD, in relation to an amount of money, means Australian dollars.

AusAID means the Australian Agency for International Development within Foreign Affairs.

AusAID Minister means the Minister responsible for administering AusAID.

AusAID recipient has the meaning given by subregulation 1.04A (2).

AusAID student has the meaning given by subregulation 1.04A (3).

Australian child order has the meaning given by subsection 70L (1) of the *Family Law Act 1975*.

Note Subsection 70L (1) of the *Family Law Act 1975* provides that an **Australian child order** means:

- (a) a residence order, a contact order or a care order; or
- (b) a State child order within the meaning of section 70B of that Act.

Australian permanent resident means:

- (a) in relation to an applicant for a Return (Residence) (Class BB) visa or a Resident Return (Temporary) (Class TP) visa — a non-citizen who is the holder of a permanent visa; or
- (b) in any other case (other than in the case of an applicant for registration as a migration agent under Part 3 of the Act) — a non-citizen who, being usually resident in Australia, is the holder of a permanent visa.

Note For paragraph 294 (1) (b) of the Act, regulation 6C of the *Migration Agents Regulations 1998* specifies the persons who are **Australian permanent residents** for the purposes of an applicant for registration as a migration agent under Part 3 of the Act.

Australian Standard Classification of Occupations means the standard published by the Australian Bureau of Statistics on 31 July 1997.

Note At the time that this regulation commenced, the standard could be found at the website address: <http://www.abs.gov.au>.

Australian study requirement has the meaning given by regulation 1.15F.

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authorised officer means an officer authorised by the Secretary for the purposes of the provision in which it occurs.

award course means a course of education or training leading to:

- (a) the completion of a primary or secondary education program; or
- (b) a degree, diploma, trade certificate or other formal award.

balance of family test has the meaning set out in regulation 1.05.

bilateral adoption arrangement means an arrangement between Australia and another country that allows the adoption of a child from the other country to be recognised in Australia under the *Family Law (Bilateral Arrangements — Intercountry Adoption) Regulations 1998*.

bogus document has the same meaning as in section 97 of the Act.

Note The definition is:

bogus document, in relation to a person, means a document that the Minister reasonably suspects is a document that:

- (a) purports to have been, but was not, issued in respect of the person; or
- (b) is counterfeit or has been altered by a person who does not have authority to do so; or
- (c) was obtained because of a false or misleading statement, whether or not made knowingly.

business skills points test means the test set out in Schedule 7.

carer has the meaning given by regulation 1.15AA.

category A course, in relation to the holder of a visa or entry permit granted before 1 September 1994, means a course of education or training that:

- (a) is offered by an institution or other body or person in Australia that is a registered provider, for the purposes of the *Education Services for Overseas Students Act 2000*, of that course in the State or Territory in which that person is undertaking, or proposes to undertake, it; and
- (b) is either:
 - (i) a course of primary or secondary education; or

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- (ii) a post-secondary course (having as an entry requirement the successful completion of Year 12 studies or the equivalent) leading to the award of a degree, diploma (including an associate diploma and a graduate diploma) or graduate certificate or to an equivalent award.

category A student means a student who, immediately before 1 September 1994, held a Class 560 (student (category A)) entry permit granted under the Migration (1993) Regulations or a student (Category A) (code number 560) entry permit granted under the Migration (1989) Regulations.

category B course, in relation to the holder of a visa or entry permit granted before 1 September 1994, means a course of education or training that:

- (a) is offered by an institution or other body or person in Australia that is a registered provider, for the purposes of the *Education Services for Overseas Students Act 2000*, of that course in the State or Territory in which that person is undertaking, or proposes to undertake, it; and
- (b) is not a category A course.

category B student means a student who, immediately before 1 September 1994, held a Class 561 (student (category B)) entry permit granted under the Migration (1993) Regulations or a student (category B) (code number 561) entry permit under the Migration (1989) Regulations.

certificate of enrolment, means a paper copy, sent by an education provider to an applicant for a student visa, of an electronic confirmation of enrolment relating to the applicant.

clearance officer has the meaning given by section 165 of the Act.

Note the definition is:

clearance officer means an officer, or other person, authorised by the Minister to perform duties for the purposes of [Division 5 of Part 2 of the Act].

client number means a client identification number generated by Immigration's electronic system known as the Integrated Client Services Environment.

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close relative, in relation to a person, means:

- (a) the spouse or de facto partner of the person; or
- (b) a child, parent, brother or sister of the person; or
- (c) a step-child, step-brother or step-sister of the person.

Commissioner means a Commissioner appointed under section 203 of the Act.

Commonwealth country means each of the following countries:

- (a) Antigua;
- (b) Bahamas;
- (c) Barbados;
- (d) Belize;
- (e) Canada;
- (f) Grenada;
- (g) Jamaica;
- (h) Mauritius;
- (j) New Zealand;
- (k) Papua New Guinea;
- (l) Saint Lucia;
- (m) Saint Vincent and the Grenadines;
- (n) Solomon Islands;
- (p) St Christopher and Nevis;
- (q) Tuvalu;
- (r) the United Kingdom of Great Britain and Northern Ireland.

Commonwealth forces member means a person who:

- (a) is a member of the armed forces of a Commonwealth country; and
- (b) is travelling to Australia, or is in Australia, in the course of his or her duty; and
- (c) holds military identity documents and movement orders issued from an official source of the relevant country.

Commonwealth Medical Officer means a medical practitioner employed or engaged by the Australian government.

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community services includes the provision of an Australian social security benefit, allowance or pension.

compelling need to work has the meaning set out in regulation 1.08.

competent authority, in relation to an adoption (including a prospective adoption), means:

- (a) for Australia:
 - (i) in the case of an adoption to which the Adoption Convention applies — a State Central Authority within the meaning of the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*; and
 - (ii) in the case of an adoption to which a bilateral adoption arrangement applies — a competent authority within the meaning of the *Family Law (Bilateral Arrangements — Intercountry Adoption) Regulations 1998*; and
 - (iii) in any other case — the child welfare authorities of an Australian State or Territory; and
- (b) for an Adoption Convention country — a Central Authority within the meaning of the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*; and
- (c) for a prescribed overseas jurisdiction within the meaning of the *Family Law (Bilateral Arrangements — Intercountry Adoption) Regulations 1998* — a competent authority within the meaning of those regulations; and
- (d) for any other overseas country — a person, body or office in that overseas country responsible for approving the adoption of children.

competent English has the meaning given by regulation 1.15C.

concessional competent English has the meaning given by regulation 1.15E.

condition means a condition set out in a clause of Schedule 8, and a reference to a condition by number is a reference to the condition set out in the clause so numbered in that Schedule.

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contact hours, for a course for a period, means the total number of hours in the period for which students enrolled in the course are scheduled to attend classes for teaching purposes, course-related information sessions, supervised study sessions and examinations.

contributory parent newborn child means:

- (a) a child (other than an adopted child) of a parent, born at a time when that parent holds:
 - (i) a Subclass 173 (Contributory Parent (Temporary)) visa; or
 - (ii) a bridging visa if the last substantive visa held by that parent was a Subclass 173 (Contributory Parent (Temporary)) visa; or
- (b) a child (other than an adopted child) of a parent, born at a time when that parent holds:
 - (i) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
 - (ii) a bridging visa if the last substantive visa held by that parent was a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

criminal detention has the meaning set out in regulation 1.09.

custody, in relation to a child, means:

- (a) the right to have the daily care and control of the child; and
- (b) the right and responsibility to make decisions concerning the daily care and control of the child.

Defence means the Department of Defence.

Defence Minister means the Minister for Defence.

Defence student has the meaning given in regulation 1.04B.

dependent has the meaning given by regulation 1.05A.

dependent child, of a person, means the child or step-child of the person (other than a child who is engaged to be married or has a spouse or de facto partner), being a child who:

- (a) has not turned 18; or
- (b) has turned 18 and:
 - (i) is dependent on that person; or

- (ii) is incapacitated for work due to the total or partial loss of the child's bodily or mental functions.

designated APEC economy means an APEC economy specified by Gazette Notice for the purposes of this definition.

designated foreign dignitary means a person to whom subregulation 3.06A (1) or (5) applies.

designated language means a language that is specified by Gazette Notice as a designated language.

designated security means an investment in a security specified under regulation 2.26C.

Education means the Department of Education, Science and Training.

Education Minister means the Minister for Education, Science and Training.

education provider, for a registered course in a State or Territory, means each institution, body or person that is a registered provider of the course in that State or Territory, for the *Education Services for Overseas Students Act 2000*.

education sector, in relation to a student visa, means whichever of the following sectors of the Australian education system corresponds to a particular subclass of student visa:

- (a) Independent ELICOS sector;
- (b) Schools sector;
- (c) Vocational Education and Training sector;
- (d) Higher Education sector;
- (e) Postgraduate Research sector;
- (f) Non-Award sector;
- (g) AusAID or Defence sector.

electronic communication has the same meaning as in the *Electronic Transactions Act 1999*.

electronic confirmation of enrolment, in relation to an applicant for a student visa, means confirmation that:

- (a) states that the applicant is enrolled in a registered course; and

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- (b) is sent by an education provider, through a computer system under the control of the Education Minister, to:
- (i) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (ii) an office of a visa application agency that is approved in writing by the Minister for the purpose of receiving applications for a student visa; or
 - (iii) any office of Immigration in Australia.

ELICOS means an English Language Intensive Course for Overseas Students that is a registered course.

eligible business has the meaning given to it in subsection 134 (10) of the Act.

eligible New Zealand citizen means a New Zealand citizen who:

- (a) at the time of his or her last entry to Australia, would have satisfied public interest criteria 4001 to 4004 and 4007 to 4009; and
- (b) either:
 - (i) was in Australia on 26 February 2001 as the holder of a Subclass 444 (Special Category) visa that was in force on that date; or
 - (ii) was in Australia as the holder of a Subclass 444 visa for a period of, or periods that total, not less than 1 year in the period of 2 years immediately before 26 February 2001; or
 - (iii) has a certificate, issued under the *Social Security Act 1991*, that states that the citizen was, for the purposes of that Act, residing in Australia on a particular date.

eligible student visa means a student visa other than:

- (a) a Subclass 560 (Student) visa granted to:
 - (i) the applicant as a person who satisfied the primary criteria for that visa (the **primary person**) in relation to undertaking:
 - (A) a registered English language course or an ELICOS; or

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- (B) a course of study:
 - (I) paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency; and
 - (II) for which a condition of payment by that body for the course is that the student will leave Australia on the completion of the course; or
- (C) a full-time course of study or training under a scholarship scheme or training program:
 - (I) approved by the AusAID Minister or the Defence Minister; and
 - (II) for which it is a condition of that scheme or program that the student will leave Australia on the completion of the course; or
- (D) a non-award course; or
- (ii) the applicant as a member of the family unit of the primary person; or
- (b) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependent), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Postgraduate Research Sector) visa granted to:
 - (i) the applicant as a person who satisfied the primary criteria for the visa in relation to undertaking a course mentioned in sub-subparagraph (a) (i) (B) or (C) (the *primary person*); or
 - (ii) the applicant as a member of the family unit of the primary person; or
- (c) a Subclass 570 (Independent ELICOS Sector) visa; or
- (d) a Subclass 571 (Schools Sector) visa; or
- (e) a Subclass 575 (Non-Award Sector) visa; or
- (f) a Subclass 576 (AusAID or Defence Sector) visa.

Employment Minister means the Minister for Employment and Workplace Relations.

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entry permit has the meaning given by subsection 4 (1) of the Act as in force immediately before 1 September 1994, and includes an entry visa operating as an entry permit.

entry visa has the meaning given by subsections 4 (1) and 17 (5) of the Act as in force immediately before 1 September 1994.

ETA-eligible passport has the meaning given in regulation 1.11B.

eVisitor eligible passport has the meaning given by regulation 1.11C.

fiscal year, in relation to a business or investment, means:

- (a) if there is applicable to the business or investment by law an accounting period of 12 months — that period; or
- (b) in any other case — a period of 12 months approved by the Minister in writing for that business or investment.

Foreign Affairs means the Department of Foreign Affairs and Trade.

foreign armed forces dependant means a person who:

- (a) is the spouse or de facto partner of, or a dependent relative of:
 - (i) an Asia-Pacific forces member; or
 - (ii) a Commonwealth forces member; or
 - (iii) a SOFA forces member; or
 - (iv) a SOFA forces civilian component member; and
- (b) holds a valid national passport and a certificate that he or she is the spouse or de facto partner, or a dependent relative, of a person referred to in subparagraph (a) (i), (ii), (iii) or (iv); and
- (c) is accompanying or joining a person of that kind.

Note Under section 10 of the *Australian Citizenship Act 1948*, a child born in Australia on or after 26 January 1949 but before 20 August 1986 acquired Australian citizenship by birth. A child born in Australia on or after 20 August 1986 acquired Australian citizenship by birth only if one or both of the parents was an Australian citizen or Australian permanent resident. For details see s. 10 of that Act.

Foreign Minister means the Minister for Foreign Affairs.

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foreign naval forces member means a person who forms part of the complement of a ship of the regular armed forces of a foreign government and is on board the ship.

formal course, in relation to the holder of a visa or entry permit granted before 1 February 1991, means:

- (a) a course of study at a primary or secondary school approved, or within a class of schools approved, by the Education Minister in writing for the purposes of the definition of ***formal course*** in subregulation 2 (1) of the Migration (1989) Regulations; or
- (b) a course of study approved in writing by the Education Minister as a formal course for the purposes of that definition; or
- (c) a course of study at a technical and further education institution, or at a higher education institution, leading to a formal award such as a degree or diploma.

Gazette Notice means:

- (a) a notice in the *Gazette* by the Minister that is authorised by the Act; or
- (b) a notice under regulation 1.17.

General Skilled Migration visa means a Subclass 175, 176, 475, 476, 485, 487, 885, 886 or 887 visa, granted at any time.

guardian, in relation to a child, means a person who:

- (a) has responsibility for the long-term welfare of the child; and
- (b) has, in relation to the child, all the powers, rights and duties that are vested by law or custom in the guardian of a child, other than:
 - (i) the right to have the daily care and control of the child; and
 - (ii) the right and responsibility to make decisions concerning the daily care and control of the child.

guest of Government means:

- (a) an official guest of the Australian government; or
- (b) a member of the immediate family of the official guest of the Australian Government, who is accompanying the official guest.

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home country, in relation to a person, means:

- (a) the country of which the person is a citizen; or
- (b) if the person is not usually resident in that country, the country of which the person is usually a resident.

Hong Kong means the Hong Kong Special Administrative Region of the People's Republic of China.

IASS agreement means an agreement mentioned in regulation 1.16B.

IELTS test means the International English Language Testing System test.

Immigration means the Department of Immigration and Multicultural and Indigenous Affairs.

Industry Minister means the Minister for Industry, Tourism and Resources.

international air carrier has the meaning given by subsection 504 (6) of the Act.

Internet application means an application for a visa made using a form mentioned in paragraph 1.18 (2) (b) that is sent to Immigration by electronic transmission using a facility made available at an Internet site mentioned in subparagraph 1.18 (2) (b) (ii), in a way authorised by that facility.

in Australia means in the migration zone.

labour agreement means:

- (a) a formal agreement entered into between the Minister, or the Employment Minister, and a person or organisation in Australia under which an employer is authorised to recruit persons (other than the holders of permanent visas) to be employed by that employer in Australia; or
- (b) a formal agreement entered into between the Minister and a sporting organisation under which the sporting organisation is authorised to recruit persons (other than the holders of permanent visas) to take part in the sporting activities of the sporting organisation, whether as employees or otherwise.

labour market requirements has the meaning set out in regulation 1.10.

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long-term partner relationship, in relation to an applicant for a visa, means a relationship between the applicant and another person, each as the spouse or de facto partner of the other, that has continued:

- (a) if there is a dependent child (other than a step-child) of both the applicant and the other person — for not less than 2 years; or
- (b) in any other case — for not less than 5 years.

Macau means the Macau Special Administrative Region of the People's Republic of China.

main business has the meaning set out in regulation 1.11.

Medical Officer of the Commonwealth means a medical practitioner appointed by the Minister in writing under regulation 1.16AA to be a Medical Officer of the Commonwealth for the purposes of these Regulations.

member of the crew, in relation to a non-military ship or superyacht:

- (a) means any of the following persons:
 - (i) a person who is involved in the usual day to day routine maintenance or business of the ship or superyacht while it is at sea, including a supernumerary member of the crew;
 - (ii) for a ship described in subparagraph (a) (ii) of the definition of ***non-military ship*** — a person who is engaged in scientific research conducted on or from the ship;

whether the person works as an employee, a contractor or in another capacity; but

- (b) does not include a person who only works on a ship or superyacht while it is in port or dry dock unless that person:
 - (i) travelled with the ship or superyacht to reach the port or dry dock; or
 - (ii) travels with the ship or superyacht after completing the work in port or dry dock.

member of the family unit has the meaning set out in regulation 1.12.

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member of the immediate family has the meaning given by regulation 1.12AA.

member of the Royal Family means a member of the Queen's immediate family.

member of the Royal party includes:

- (a) a member of the personal staff of the Queen who is accompanying Her Majesty in Australia; and
- (b) a member of the personal staff of a member of the Royal Family, being a staff member who is accompanying that member of the Royal Family in Australia; and
- (c) a media representative accompanying the official party of the Queen or of a member of the Royal Family in Australia; and
- (d) a person who is accompanying the Queen or a member of the Royal Family in Australia as a member of the official party of the Queen or the member of the Royal Family.

Migration (1959) Regulations means the Regulations comprising Statutory Rules 1959 No. 35 and those Regulations as amended from time to time.

Migration (1989) Regulations means the Regulations comprising Statutory Rules 1989 No. 365 and those Regulations as amended from time to time.

Migration (1993) Regulations means the Regulations comprising Statutory Rules 1992 No. 367 and those Regulations as amended from time to time.

Note The Migration (1993) Regulations are listed in full in Part 1 of the Schedule to the Migration Reform (Transitional Provisions) Regulations. They are repealed by regulation 42 of those Regulations but continue to apply to certain matters.

migration occupation in demand means a skilled occupation that is specified by an instrument in writing for this definition as a migration occupation in demand.

net employment benefit has the meaning given by regulation 1.12A.

nominator has the meaning given by regulation 1.13.

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non-award course means a course of education or training that is not an award course.

non-formal course, in relation to the holder of a visa or entry permit granted before 1 February 1991, means a course of study or training other than a formal course.

non-formal course student, in relation to a visa or entry permit granted before 1 February 1991, means a person granted entry to Australia to attend a full-time non-formal course of study.

non-military ship

- (a) means a ship that:
- (i) is engaged in:
 - (A) commercial trade; or
 - (B) the carriage of passengers for reward; or
 - (ii) is owned and operated by a foreign government for the purposes of scientific research; or
 - (iii) has been accorded public vessel status by Foreign Affairs; but
- (b) does not include a ship that has been:
- (i) imported in accordance with section 49A of the *Customs Act 1901*; or
 - (ii) entered for home consumption in accordance with section 71A of that Act.

occupational trainee means a person who is in Australia as the holder of a Subclass 442 (Occupational Trainee) visa.

Occupational English Test means an Occupational English Test conducted by the National Language and Literacy Institute of Australia.

Occupations Requiring English List means the list mentioned in regulation 1.19.

oral application, in relation to a visa, means an application made in accordance with regulation 2.09.

orphan relative has the meaning set out in regulation 1.14.

outside Australia means outside the migration zone.

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overseas passenger means:

- (a) in relation to a vessel arriving at a port in Australia in the course of, or at the conclusion of, an overseas voyage — a passenger:
 - (i) who:
 - (A) was on board the vessel when it left a place outside Australia at the commencement of, or during the course of, the voyage; and
 - (B) whose journey in the vessel ends in Australia; or
 - (ii) who:
 - (A) was on board the vessel when it left a place outside Australia at the commencement of, or during the course of, the voyage; and
 - (B) intends to journey in the vessel to a place outside Australia; and
- (b) in relation to a vessel leaving a port in Australia and bound for or calling at a place outside Australia — a passenger on board the vessel who:
 - (i) joined the vessel at a port in Australia; and
 - (ii) intends to journey in the vessel to or beyond that place outside Australia.

Note Under the Act, *vessel* includes an aircraft, and *port* includes an airport.

overseas voyage, in relation to a vessel, means a voyage that commenced at, or during which the vessel called at, a place outside Australia.

ownership interest has the meaning given to it in subsection 134 (10) of the Act.

parent visa means a visa of a class that is specified in Schedule 1 using the word ‘parent’ in the title of the visa.

parole means conditional release from prison before the completion of a sentence of imprisonment.

passenger card means a card of the kind referred to in section 506 of the Act.

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periodic detention means a system of restriction of liberty by which periods at liberty alternate with periods in prison, and includes the systems of intermittent imprisonment known as day release and weekend release.

permanent entry permit means an entry permit that had effect without limitation as to time.

permanent entry visa means an entry visa that operated as, or was capable of operating as, a permanent entry permit.

permanent humanitarian visa means:

- (a) a Subclass 200, 201, 202, 203, 204, 209, 210, 211, 212, 213, 215, 216, 217 or 866 visa; or
- (aa) a Resolution of Status (Class CD) visa; or
- (b) a Group 1.3 or Group 1.5 (Permanent resident (refugee and humanitarian)) visa or entry permit within the meaning of the Migration (1993) Regulations; or
- (c) a humanitarian visa, or equivalent entry permit, within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa, within the meaning of the Migration Reform (Transitional Provisions) Regulations, being:
 - (i) such a visa granted on the basis of an application for a visa, or entry permit, of a kind specified in paragraph (b) or (c); or
 - (ii) a visa or entry permit of a kind specified in paragraph (b) or (c) having effect under those Regulations as a transitional (permanent) visa.

person designated under regulation 2.07AO means a person mentioned in subregulation 2.07AO (2).

points system means the system of assessment under Subdivision B of Division 3 of Part 2 of the Act.

PRC means the People's Republic of China.

prescribed form means a form set out in Schedule 10, and a reference to a prescribed form by number is a reference to the form so numbered in that Schedule.

proficient English has the meaning given by regulation 1.15D.

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prohibited non-citizen means a person who, on or before 18 December 1989, was a prohibited non-citizen within the meaning of the Act as in force at that time.

proliferation of weapons of mass destruction includes directly or indirectly assisting in the development, production, trafficking, acquisition or stockpiling of:

- (a) weapons that may be capable of causing mass destruction; or
- (b) missiles or other devices that may be capable of delivering such weapons.

public interest criterion means a criterion set out in a clause of Part 1 of Schedule 4, and a reference to a public interest criterion by number is a reference to the criterion set out in the clause so numbered in that Part.

qualifying business means an enterprise that:

- (a) is operated for the purpose of making profit through the provision of goods, services or goods and services (other than the provision of rental property) to the public; and
- (b) is not operated primarily or substantially for the purpose of speculative or passive investment.

registered course means a course of education or training provided by an institution, body or person that is registered, under section 9 of the *Education Services for Overseas Students Act 2000*, to provide the course to overseas students.

Note A current list of registered courses appears in the Commonwealth Register of Institutions and Courses for Overseas Students kept under section 10 of the *Education Services for Overseas Students Act 2000*.

relative, in relation to a person, means:

- (a) in the case of an applicant for a Subclass 200 (Refugee) visa or a Protection (Class XA) visa:
 - (i) a close relative; or
 - (ii) a grandparent, grandchild, aunt, uncle, niece or nephew, or a step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew; or
 - (iii) a first or second cousin; or
- (b) in any other case:
 - (i) a close relative; or

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- (ii) a grandparent, grandchild, aunt, uncle, niece or nephew, or a step-grandparent, step-grandchild, step-aunt, step-uncle, step-niece or step-nephew.

Note **Close relative** is defined in this regulation: see above.

relevant assessing authority means a person or body specified under regulation 2.26B.

religious institution means a religious institution (within the meaning of paragraph 23 (e) of the *Income Tax Assessment Act 1936*), the income of which is exempt from income tax under that paragraph.

remaining relative has the meaning set out in regulation 1.15.

review authority:

- (a) means the Migration Review Tribunal; and
- (b) for Parts 010, 020, 030, 040, 041, 050 and 051 of Schedule 2 — includes the Refugee Review Tribunal.

RHQ agreement means an agreement mentioned in regulation 1.16A and made before 1 November 2003.

Schedule 3 criterion means a criterion set out in a clause of Schedule 3, and a reference to a Schedule 3 criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule.

school-age dependant, in relation to a person, means a member of the family unit of the person who has turned 5, but has not turned 18.

secondary exchange student means an overseas secondary school student participating in a secondary school student exchange program approved by:

- (a) the State or Territory education authority that administers the program; and
- (b) the Education Minister.

settled, in relation to an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen, means lawfully resident in Australia for a reasonable period.

skilled occupation means an occupation that is specified by the Minister in an instrument in writing for this definition as a skilled occupation for which a number of points specified in that instrument are available.

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SOFA forces civilian component member means a person who:

- (a) is, for the purposes of a Status of Forces Agreement between Australia and France, Malaysia, New Zealand, Papua New Guinea, the Republic of the Philippines, Singapore, Turkey or the United States of America, a member of the civilian component of the armed forces of one of those countries; and
- (b) holds a national passport that is in force and a certificate that he or she is a member of the civilian component of the armed forces of the relevant country.

SOFA forces member means a person who:

- (a) is, for the purposes of a Status of Forces Agreement between Australia and France, Malaysia, New Zealand, Papua New Guinea, the Republic of the Philippines, Singapore, Turkey or the United States of America, a member of the armed forces of one of those countries; and
- (b) holds military identity documents and movement orders issued from an official source of the relevant country.

special return criterion means a criterion set out in a clause of Part 1 of Schedule 5, and a reference to a special return criterion by number is a reference to the criterion set out in the clause so numbered in that Schedule.

sponsor has the meaning given by subregulation 1.20 (1).

sponsorship means an undertaking of the kind referred to in regulation 1.20 to sponsor an applicant.

step-child, in relation to a parent, means:

- (a) a person who is not the child of the parent but who is the child of the parent's current spouse or de facto partner; or
- (b) a person who is not the child of the parent but:
 - (i) who is the child of the parent's former spouse or former de facto partner; and
 - (ii) who has not turned 18; and
 - (iii) in relation to whom the parent has:
 - (A) a residence order in force under the *Family Law Act 1975*; or

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- (B) a specific issues order in force under the *Family Law Act 1975* under which the parent is responsible for the child's long-term or day-to-day care, welfare and development; or
- (C) guardianship or custody, whether jointly or otherwise, under a Commonwealth, State or Territory law or a law in force in a foreign country.

student visa means a Subclass 560, 562, 563, 570, 571, 572, 573, 574, 575 or 576 visa, whenever granted.

subsidised student means a student enrolled in a course of study in respect of which the student is subsidised under the Subsidised Overseas Student Program administered by Education.

substituted Subclass 676 visa means a Subclass 676 (Tourist) visa that was granted following a decision by the Minister to substitute a more favourable decision under section 345, 351, 391, 417, 454 or 501J of the Act.

superyacht means a sailing ship or motor vessel of a kind that is specified by the Minister under regulation 1.15G to be a superyacht.

suspended education provider means an education provider for which a suspension certificate is in effect under Division 2 of Part 6 of the *Education Services for Overseas Students Act 2000*.

temporary entry permit means an entry permit whose effect was subject to a limitation as to time.

the Act means the *Migration Act 1958*.

tourism means participation in activities of a recreational nature including amateur sporting activities, informal study courses, relaxation, sightseeing and travel.

trainee, in the case of a visa or entry permit granted before 1 February 1991, means a person:

- (a) in respect of whom the Education Minister has approved participation in occupational training in Australia; and
- (b) who has been granted a visa or an entry permit to enable such participation.

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transit passenger means a person who:

- (a) enters Australia by aircraft; and
- (b) holds a confirmed onward booking to leave Australia to travel to a third country on the same or another aircraft within 8 hours of the person's arrival in Australia; and
- (d) holds documentation necessary to enter the country of his or her destination.

vocational English has the meaning given in regulation 1.15B.

work means an activity that, in Australia, normally attracts remuneration.

working age means:

- (a) in the case of a female, under 60 years of age; and
- (b) in the case of a male, under 65 years of age.

working age parent means a parent other than an aged parent.

Note 1 ***aged parent*** is defined in this regulation.

Note 2 ***foreign country*** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

1.04 Adoption

- (1) A person (in this regulation called ***the adoptee***) is taken to have been adopted by a person (in this regulation called ***the adopter***) if, before the adoptee attained the age of 18 years, the adopter assumed a parental role in relation to the adoptee under:
 - (a) formal adoption arrangements made in accordance with, or recognised under, the law of a State or Territory of Australia relating to the adoption of children; or
 - (b) formal adoption arrangements made in accordance with the law of another country, being arrangements under which the persons who were recognised by law as the parents of the adoptee before those arrangements took effect ceased to be so recognised and the adopter became so recognised; or
 - (c) other arrangements entered into outside Australia that, under subregulation (2), are taken to be in the nature of adoption.

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- (2) For the purposes of paragraph (1) (c), arrangements are taken to be in the nature of adoption if:
- (a) the arrangements were made in accordance with the usual practice, or a recognised custom, in the culture or cultures of the adoptee and the adopter; and
 - (b) the child-parent relationship between the adoptee and the adopter is significantly closer than any such relationship between the adoptee and any other person or persons, having regard to the nature and duration of the arrangements; and
 - (c) the Minister is satisfied that:
 - (i) formal adoption of the kind referred to in paragraph (1) (b):
 - (A) was not available under the law of the place where the arrangements were made; or
 - (B) was not reasonably practicable in the circumstances; and
 - (ii) the arrangements have not been contrived to circumvent Australian migration requirements.

1.04A AusAID recipients and AusAID students

- (1) In this regulation:

AIDAB means the former Australian International Development Assistance Bureau.

AusAID student visa means:

- (a) a Subclass 560 (Student), Subclass 562 (Iranian Postgraduate Student) or Subclass 576 (AusAID or Defence Sector) visa granted to a person who, as an applicant:
 - (i) satisfied the primary criteria for the grant of the visa; and
 - (ii) was a student in a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister; or
- (b) an equivalent former visa or entry permit; or
- (c) an equivalent transitional visa.

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cease, in relation to a full-time course of study or training, includes to complete, to withdraw from, or to be excluded from, that course.

equivalent former visa or entry permit means a Group 2.2 (student) visa or entry permit, within the meaning of the Migration (1993) Regulations, granted to a person who, as an applicant:

- (a) satisfied the criteria for the grant of the visa or entry permit as a primary person; and
- (b) was a student in a full-time course of study or training under a scholarship scheme or training program approved by AIDAB or AusAID.

equivalent transitional visa means a transitional (temporary) visa within the meaning of the Migration Reform (Transitional Provisions) Regulations that:

- (a) is, or was, held by a person because the person held an equivalent former visa or entry permit; or
- (b) was granted to a person on the basis of a decision that the person satisfied the criteria for the grant of an equivalent former visa or entry permit.

(2) A person is an *AusAID recipient* if:

- (a) either:
 - (i) the person is the holder of an AusAID student visa and has ceased:
 - (A) the full-time course of study or training to which that visa relates; or
 - (B) another course approved by the AusAID Minister in substitution for that course; or
 - (ii) if the person is not the holder of an AusAID student visa — the person has in the past been the holder of an AusAID student visa and has ceased:
 - (A) the full-time course of study or training to which the last AusAID student visa held by the person related; or
 - (B) another course approved by the AusAID Minister in substitution for that course; and

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- (b) the person has not spent at least 2 years outside Australia since ceasing the course.
- (3) A person is an *AusAID student* if:
 - (a) the person has been approved by the AusAID Minister to undertake a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister; and
 - (b) the person is:
 - (i) the holder of an AusAID student visa granted in circumstances where the person intended to undertake the full-time course of study or training; or
 - (ii) an applicant for a student visa whose application shows an intention to undertake a full-time course of study or training; and
 - (c) in the case of a person mentioned in subparagraph (b) (i) — the person has not ceased:
 - (i) the full-time course of study or training to which the visa relates; or
 - (ii) another course approved by the AusAID Minister in substitution for that course.

1.04B Defence student

A person is a *Defence student* if:

- (a) the person has been approved by the Defence Minister to undertake a full-time course of study or training under a scholarship scheme or training program approved by the Defence Minister; and
- (b) the person is:
 - (i) the holder of a Subclass 576 (AusAID or Defence Sector) visa granted in circumstances where the person intended to undertake the course of study or training; or
 - (ii) an applicant for a student visa whose application shows an intention to undertake the course of study or training; and

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- (c) in the case of a person mentioned in subparagraph (b) (i) — the person has not ceased, completed, withdrawn from, or been excluded from:
 - (i) the course of study or training to which the visa relates; or
 - (ii) another course approved by the Defence Minister in substitution for that course.

1.05 Balance of family test

- (1) For the purposes of this regulation:
 - (a) a person is a child of another person (the *parent*) if the person is a child or step-child of:
 - (i) the parent; or
 - (ii) a spouse or de facto partner of the parent; or
 - (iii) a former spouse or former de facto partner of the parent, if the child was born or adopted:
 - (A) before the parent became the spouse or de facto partner of the former spouse or former de facto partner; or
 - (B) while the parent was the spouse or de facto partner of the former spouse or former de facto partner; and
 - (b) if the whereabouts of a child of the parent are unknown, the child is taken to be resident in the usual country of residence of the parent.
- (2) A parent satisfies the balance of family test if:
 - (a) each of the children of the parent is either:
 - (i) lawfully and permanently resident in Australia; or
 - (ii) a person who is:
 - (A) an eligible New Zealand citizen; and
 - (B) usually resident in Australia; or
 - (b) the number of children of the parent who are lawfully and permanently resident in Australia or are eligible New Zealand citizens usually resident in Australia is:
 - (i) greater than, or equal to, the total number of children of the parent who are resident overseas; or

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- (ii) greater than the greatest number of children of the parent who are resident in any single overseas country.
- (3) In applying the balance of family test, no account is to be taken of a child of the parent:
- (a) if the child has been removed by court order, by adoption or by operation of law (other than in consequence of marriage) from the exclusive custody of the parent; or
 - (b) if the child is resident in a country where the child suffers persecution or abuse of human rights and it is not possible to reunite the child and the parent in another country; or
 - (c) if the child is resident in a refugee camp operated by:
 - (i) the United Nations High Commissioner for Refugees; or
 - (ii) the government of Hong Kong;and is registered by the Commissioner as a refugee; or
 - (d) if:
 - (i) the child is a step-child of the parent; and
 - (ii) the child had turned 18 at the time at which the parent became the spouse or de facto partner of the child's other parent;and one or more of the following subparagraphs applies:
 - (iii) the other parent is deceased; or
 - (iv) the parent is not in a married relationship or de facto relationship with the other parent.

1.05A Dependent

- (1) Subject to subregulation (2), a person (the *first person*) is dependent on another person if:
- (a) at the time when it is necessary to establish whether the first person is dependent on the other person:
 - (i) the first person is, and has been for a substantial period immediately before that time, wholly or substantially reliant on the other person for financial support to meet the first person's basic needs for food, clothing and shelter; and

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- (ii) the first person's reliance on the other person is greater than any reliance by the first person on any other person, or source of support, for financial support to meet the first person's basic needs for food, clothing and shelter; or
 - (b) the first person is wholly or substantially reliant on the other person for financial support because the first person is incapacitated for work due to the total or partial loss of the first person's bodily or mental functions.
- (2) A person (the *first person*) is dependent on another person for the purposes of an application for:
 - (d) a Protection (Class XA) visa; or
 - (e) a Refugee and Humanitarian (Migrant) (Class BA) visa; or
 - (ea) a Refugee and Humanitarian (Class XB) visa; or
 - (i) a Temporary Safe Haven (Class UJ) visa;if the first person is wholly or substantially reliant on the other person for financial, psychological or physical support.

1.06 References to classes of visas

A class of visas may be referred to:

- (a) in the case of a class of visas referred to in Schedule 1 — by the code allotted to the class in the heading of the item in Schedule 1 that relates to that class of visas; or
- (b) in the case of a transitional visa, by the following codes:
 - (i) transitional (permanent): BF;
 - (ii) transitional (temporary): UA.

Note For example, Cultural/Social (Temporary) Class may be referred to as Class TE.

1.07 References to subclasses of visas

- (1) A reference to a visa of a particular subclass (for example, *a visa of Subclass 414*) is a reference to a visa granted on satisfaction of the criteria set out in the Part of Schedule 2 that bears the number of the subclass.

- (2) A reference to an applicant for a visa of a particular subclass is a reference to an applicant who applies for a visa of a class that may, under Schedule 1, be granted on satisfaction of the criteria set out in the Part of Schedule 2 that bears the number of the subclass.

1.08 Compelling need to work

For the purposes of these Regulations, a non-citizen has a compelling need to work if and only if:

- (a) he or she is in financial hardship; or
- (b) he or she:
 - (i) is nominated by an employer in respect of an approved appointment (within the meaning of regulation 5.19); and
 - (ii) appears to the Minister, on the basis of information contained in the application, to satisfy the criterion in clause 856.213 or 857.213 of Schedule 2; or
- (c) he or she:
 - (i) is:
 - (A) an applicant for a Business (Temporary) (Class TB) visa; or
 - (B) an applicant for an Educational (Temporary) (Class TH) visa who appears to the Minister, on the basis of information contained in the application, to satisfy the criteria for the grant of a Subclass 418 visa; or
 - (C) an applicant for a Medical Practitioner (Temporary) (Class UE) visa; or
 - (D) an applicant for a Temporary Business Entry (Class UC) visa who seeks a visa to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of 3 months or more; and
 - (ii) has been sponsored by an employer in relation to that application; and
 - (iii) appears, on the basis of that application, to satisfy the criteria for that visa.

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1.09 Criminal detention

For the purposes of these Regulations, a person is in criminal detention if he or she is:

- (a) serving a term of imprisonment (including periodic detention) following conviction for an offence; or
 - (b) in prison on remand;
- but not if he or she is:
- (c) subject to a community service order; or
 - (d) on parole after serving part of a term of imprisonment; or
 - (e) on bail awaiting trial.

1.09A De facto partner and de facto relationship

- (1) For subsection 5CB (3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5CB (2) (a), (b), (c) and (d) of the Act exist.

Note 1 See regulation 2.03A for the prescribed criteria applicable to de facto partners.

Note 2 The effect of subsection 5CB (1) of the Act is that a person is the de facto partner of another person (whether of the same sex or a different sex) if the person is in a de facto relationship with the other person.

Subsection 5CB (2) sets out conditions about whether a de facto relationship exists, and subsection 5CB (3) permits the regulations to make arrangements in relation to the determination of whether 1 or more of those conditions exist.

- (2) If the Minister is considering an application for:
 - (a) a Partner (Migrant) (Class BC) visa; or
 - (b) a Partner (Provisional) (Class UF) visa; or
 - (c) a Partner (Residence) (Class BS) visa; or
 - (d) a Partner (Temporary) (Class UK) visa;the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).
- (3) The matters for subregulation (2) are:
 - (a) the financial aspects of the relationship, including:
 - (i) any joint ownership of real estate or other major assets; and

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- (ii) any joint liabilities; and
 - (iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and
 - (iv) whether one person in the relationship owes any legal obligation in respect of the other; and
 - (v) the basis of any sharing of day-to-day household expenses; and
- (b) the nature of the household, including:
- (i) any joint responsibility for the care and support of children; and
 - (ii) the living arrangements of the persons; and
 - (iii) any sharing of the responsibility for housework; and
- (c) the social aspects of the relationship, including:
- (i) whether the persons represent themselves to other people as being in a de facto relationship with each other; and
 - (ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
 - (iii) any basis on which the persons plan and undertake joint social activities; and
- (d) the nature of the persons' commitment to each other, including:
- (i) the duration of the relationship; and
 - (ii) the length of time during which the persons have lived together; and
 - (iii) the degree of companionship and emotional support that the persons draw from each other; and
 - (iv) whether the persons see the relationship as a long-term one.
- (4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).

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1.10 Labour market requirements

An application for a visa meets labour market requirements if the Minister is satisfied that:

- (a) the application is in accordance with a labour agreement; or
- (b) in respect of the employment to which the application relates:
 - (i) no Australian citizen or Australian permanent resident is readily available who has suitable qualifications and experience; and
 - (ii) if appropriate — relevant employer and employee organisations have been consulted.

1.11 Main business

- (1) For the purposes of these Regulations and subject to subregulation (2), a business is a main business in relation to an applicant for a visa if:
 - (a) the applicant has, or has had, an ownership interest in the business; and
 - (b) the applicant maintains, or has maintained, direct and continuous involvement in management of the business from day to day and in making decisions affecting the overall direction and performance of the business; and
 - (c) the value of the applicant's ownership interest, or the total value of the ownership interests of the applicant and the applicant's spouse or de facto partner, in the business is or was at least 10% of the total value of the business; and
 - (d) the business is a qualifying business.
- (2) If an applicant has, or has had, an ownership interest in more than 1 qualifying business that would, except for this subregulation, be a main business in relation to the applicant, the applicant must not nominate more than 2 of those qualifying businesses as main businesses.

1.11A Ownership for the purposes of certain Parts of Schedule 2

- (1) Subject to subregulation (4), for Parts 132, 160, 161, 162, 163, 164, 165, 845, 846, 890, 891, 892 and 893 of Schedule 2, ownership by an applicant, or the applicant's spouse or de facto partner, of an asset, an eligible investment or an ownership interest, includes beneficial ownership only if the beneficial ownership is evidenced in accordance with subregulation (2).
- (2) To evidence beneficial ownership of an asset, eligible investment or ownership interest, the applicant must show to the Minister:
 - (a) a trust instrument; or
 - (b) a contract; or
 - (c) any other document capable of being used to enforce the rights of the applicant, or the applicant's spouse or de facto partner, as the case requires, in relation to the asset, eligible investment or ownership interest;
stamped or registered by an appropriate authority under the law of the jurisdiction where the asset, eligible investment or ownership interest is located.
- (3) A document shown under subregulation (2) does not evidence beneficial ownership, for subregulation (1), for any period earlier than the date of registration or stamping by the appropriate authority.
- (4) Beneficial ownership is not required to be evidenced in accordance with subregulation (2) if the person who has legal ownership of the asset, eligible investment or ownership interest in relation to which the applicant, or the applicant's spouse or de facto partner, has beneficial ownership:
 - (a) is a dependent child of the applicant; and
 - (b) made a combined application with the applicant; and
 - (c) has not reached the age at which, in the jurisdiction where the asset, eligible investment or ownership interest is located, he or she can claim the benefits of ownership of the asset, eligible investment or ownership interest.

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1.11B ETA-eligible passport

- (1) A passport is an ETA-eligible passport in relation to an application for a visa if:
 - (a) it is a valid passport of a kind specified by Gazette Notice as an ETA-eligible passport; and
 - (b) the conditions (if any) specified by Gazette Notice for passports of that kind are satisfied in relation to that application.
- (2) A passport is an ETA-eligible passport in relation to a visa of a particular Subclass if:
 - (a) it is an ETA-eligible passport in accordance with subregulation (1); and
 - (b) it is specified by Gazette Notice to be an ETA-eligible passport for that Subclass.

1.11C eVisitor eligible passport

A passport is an eVisitor eligible passport if:

- (a) it is a valid passport of a kind specified by the Minister in an instrument in writing for this paragraph to be an eVisitor eligible passport; and
- (b) the conditions (if any) specified in the instrument are satisfied.

1.12 Member of the family unit

- (1) For the definition of *member of the family unit* in subsection 5 (1) of the Act, and subject to subregulations (2), (2A), (6) and (7), a person is a member of the family unit of another person (in this subregulation called *the family head*) if the person is:
 - (a) a spouse or de facto partner of the family head; or
 - (b) a dependent child of the family head or of a spouse or de facto partner of the family head; or
 - (c) a dependent child of a dependent child of the family head or of a spouse or de facto partner of the family head; or

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- (e) a relative of the family head or of a spouse or de facto partner of the family head who:
 - (i) does not have a spouse or de facto partner; and
 - (ii) is usually resident in the family head's household; and
 - (iii) is dependent on the family head.
- (2) A person is a member of the family unit of an applicant for a Student (Temporary) (Class TU) visa if the person is:
 - (a) a spouse or de facto partner of the applicant; or
 - (b) a dependent child of the applicant, or of that spouse or de facto partner, who is unmarried and has not turned 18.
- (2A) A person is a member of the family unit of a holder of a Student (Temporary) (Class TU) visa if the person is:
 - (a) a spouse or de facto partner of the holder; or
 - (b) a dependent child of the holder, or of that spouse or de facto partner, who is unmarried and has not turned 18.
- (3) In addition to subregulation (1), a person is a member of the family unit of an applicant for a Contributory Parent (Migrant) (Class CA) visa, being an applicant who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, if:
 - (a) the person was a member of the family unit of the applicant, in accordance with subregulation (1), at the time of application for the Contributory Parent (Temporary) (Class UT) visa; and
 - (b) the person was, in accordance with subregulation (1):
 - (i) a dependent child; or
 - (ii) dependent on the family head; and
 - (c) since the time of application for the Contributory Parent (Temporary) (Class UT) visa, the person has ceased to be:
 - (i) a dependent child; or
 - (ii) dependent on the family head.

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- (4) In addition to subregulation (1), a person is a member of the family unit of an applicant for a Contributory Aged Parent (Residence) (Class DG) visa, being an applicant who was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, if:
- (a) the person was a member of the family unit of the applicant, in accordance with subregulation (1), at the time of application for the Contributory Aged Parent (Temporary) (Class UU) visa; and
 - (b) the person was, in accordance with subregulation (1):
 - (i) a dependent child; or
 - (ii) dependent on the family head; and
 - (c) since the time of application for the Contributory Aged Parent (Temporary) (Class UU) visa, the person has ceased to be:
 - (i) a dependent child; or
 - (ii) dependent on the family head.
- (5) In addition to subregulation (1), a person is a member of the family unit of an applicant for a Business Skills (Residence) (Class DF) visa if, at the time of application:
- (a) the person holds a visa:
 - (i) of a subclass included in Business Skills (Provisional) (Class UR); and
 - (ii) that was granted on the basis that the person was a member of the family unit of a holder of a visa of a subclass included in Business Skills (Provisional) (Class UR); and
 - (b) the person is included in the application for the Business Skills (Residence) (Class DF) visa.
- (6) In addition to subregulation (1), a person is a member of the family unit of an applicant for a Distinguished Talent (Migrant) (Class AL) visa who has not turned 18 at the time of application if:
- (a) a parent of the applicant has made a combined application with the applicant for the Distinguished Talent (Migrant) (Class AL) visa; and

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- (b) the person is:
 - (i) that parent; or
 - (ii) a spouse or de facto partner of that parent; or
 - (iii) a dependent child of that parent; or
 - (iv) a dependent child of a spouse or de facto partner of that parent; or
 - (v) a dependent child of a dependent child of that parent; or
 - (vi) a dependent child of a dependent child of a spouse or de facto partner of that parent; or
 - (ix) a relative of that parent who:
 - (A) does not have a spouse or de facto partner; and
 - (B) is usually resident in that parent's household; and
 - (C) is dependent on that parent; or
 - (x) a relative of a spouse or de facto partner of that parent who:
 - (A) does not have a spouse or de facto partner; and
 - (B) is usually resident in that parent's household; and
 - (C) is dependent on that parent; and
- (c) no person is being treated as a member of the family unit of the applicant, in relation to the applicant's application for the Distinguished Talent (Migrant) (Class AL) visa, in accordance with subregulation (1); and
- (d) no other parent of the applicant is being treated as a member of the family unit of the applicant in accordance with this subregulation.

Note Paragraph 1.12 (6) (c) ensures that if one person, or a group of persons, is being treated as a member or members of the family unit of the applicant under subregulation 1.12 (1), another person or group of persons cannot be treated as a member or members of the family unit of an applicant under subregulation 1.12 (6) in relation to that same application.

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Paragraph 1.12 (6) (d) ensures that only one parent of the applicant, and the family unit of that one parent (which may include the other parent of the applicant), can be treated as members of the family unit of the applicant under subregulation 1.12 (6).

- (7) In addition to subregulation (1), a person is a member of the family unit of an applicant for a Distinguished Talent (Residence) (Class BX) visa who has not turned 18 at the time of application if:
- (a) a parent of the applicant has made a combined application with the applicant for the Distinguished Talent (Residence) (Class BX) visa; and
 - (b) the person is:
 - (i) that parent; or
 - (ii) a spouse or de facto partner of that parent; or
 - (iii) a dependent child of that parent; or
 - (iv) a dependent child of a spouse or de facto partner of that parent; or
 - (v) a dependent child of a dependent child of that parent; or
 - (vi) a dependent child of a dependent child of a spouse or de facto partner of that parent; or
 - (ix) a relative of that parent who:
 - (A) does not have a spouse or de facto partner; and
 - (B) is usually resident in that parent's household; and
 - (C) is dependent on that parent; or
 - (x) a relative of a spouse or de facto partner of that parent who:
 - (A) does not have a spouse or de facto partner; and
 - (B) is usually resident in that parent's household; and
 - (C) is dependent on that parent; and

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- (c) no person is being treated as a member of the family unit of the applicant, in relation to the applicant's application for the Distinguished Talent (Residence) (Class BX) visa, in accordance with subregulation (1); and
- (d) no other parent of the applicant is being treated as a member of the family unit of the applicant in accordance with this subregulation.

Note Paragraph 1.12 (7) (c) ensures that if one person, or a group of persons, is being treated as a member or members of the family unit of the applicant under subregulation 1.12 (1), another person or group of persons cannot be treated as a member or members of the family unit of an applicant under subregulation 1.12 (7) in relation to that same application.

Paragraph 1.12 (7) (d) ensures that only one parent of the applicant, and the family unit of that one parent (which may include the other parent of the applicant), can be treated as members of the family unit of the applicant under subregulation 1.12 (7).

- (8) In addition to subregulation (1), a person is a member of the family unit of:
 - (a) an applicant for an Employer Nomination (Residence) (Class BW) visa who seeks to satisfy the criteria for the grant of a Subclass 857 (Regional Sponsored Migration Scheme) visa; or
 - (b) an applicant for a Business Skills (Residence) (Class DF) visa who seeks to satisfy the criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa; or
 - (c) an applicant for a Skilled Independent (Migrant) (Class BN) visa who seeks to satisfy the criteria for the grant of a Subclass 137 (Skilled — State/Territory-nominated Independent) visa;if, at time of application:
 - (d) either:
 - (i) the person is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) the last substantive visa held by the person:
 - (A) since entering Australia; and

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- (B) within the period of 28 days before the application was made;
was a Skilled — Independent Regional (Provisional) (Class UX) visa; and
 - (e) the Skilled — Independent Regional (Provisional) (Class UX) visa was granted on the basis that the person was a member of the family unit of the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa, granted on the basis that the holder satisfied the primary criteria; and
 - (f) the person is included in the application for an Employer Nomination (Residence) (Class BW), Business Skills (Residence) (Class DF) or Skilled Independent (Migrant) (Class BN) visa.
- (9) In addition to subregulation (1), a person is a member of the family unit of:
- (a) an applicant for an Employer Nomination (Residence) (Class BW) visa who seeks to satisfy the primary criteria for the grant of a Subclass 857 (Regional Sponsored Migration Scheme) visa; or
 - (b) an applicant for a Skilled (Residence) (Class VB) visa who seeks to satisfy the primary criteria for the grant of a Subclass 887 (Skilled — Regional) visa; or
 - (c) an applicant for a Skilled (Provisional) (Class VC) visa who seeks to satisfy the primary criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa;
- if, at the time of application:
- (d) the person is the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Bridging A (Class WA) visa or Bridging B (Class WB) visa granted on the basis of a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa or a Skilled (Provisional) (Class VC) visa; or
 - (iii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or

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- (iv) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (v) a Subclass 487 (Skilled — Regional Sponsored) visa; and
 - (e) the visa mentioned in paragraph (d) was granted on the basis that the person was a member of the family unit of the visa holder who satisfied the primary criteria and the person is included in the application for:
 - (i) a Skilled (Residence) (Class VB) visa; or
 - (ii) a Skilled (Provisional) (Class VC) visa; or
 - (iii) an Employer Nomination (Residence) (Class BW) visa.
- (10) In addition to subregulation (1), a person is a member of the family unit of the holder of a Subclass 457 (Business (Long Stay)) visa (the *first visa*) if:
- (a) the first visa was granted on the basis that the holder satisfied the primary criteria for the grant of that visa; and
 - (b) the person holds a Subclass 457 visa, or the last substantive visa held by the person was a Subclass 457 visa, granted on the basis that he or she satisfied the requirements of paragraph (1) (b), (c) or (e); and
 - (c) if the person holds a Subclass 457 visa, or the last substantive visa held by the person was a Subclass 457 visa, granted on the basis that he or she was:
 - (i) a dependent child of the spouse or de facto partner of the holder of the first visa; or
 - (ii) a dependent child of a dependent child of the spouse or de facto partner of the holder of the first visa; or
 - (iii) a relative of the spouse or de facto partner of the holder of the first visa;the holder of the first visa is still the spouse or de facto partner of the person who was the spouse or de facto partner; and

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- (d) the person:
 - (i) has made a valid application for a Temporary Business Entry (Class UC) visa that is current; and
 - (ii) has not made a valid application for any other class of visa, other than an application that:
 - (A) has been finally determined (within the meaning of subsection 5 (9) of the Act); or
 - (B) has been withdrawn; and
- (e) the person is under the age of 21; and
- (f) the person is not the spouse or de facto partner of another person.

1.12AA Member of the immediate family

- (1) For these Regulations, a person **A** is a member of the immediate family of another person **B** if:
 - (a) A is a spouse or de facto partner of B; or
 - (b) A is a dependent child of B; or
 - (c) A is a parent of B, and B is not 18 years or more.

1.12A Net employment benefit

If:

- (a) an applicant for a visa seeks to enter Australia to undertake an activity individually or in association with a group; and
- (b) the Minister is satisfied that the undertaking of the activity would lead to greater employment of Australian citizens or Australian permanent residents (or both) than if a person normally resident in Australia undertook the activity;

the entry of the applicant to Australia is taken to confer a net employment benefit on Australia.

1.13 Meaning of *nominator*

- (1) The *nominator* of an applicant for a visa is a person who, on the relevant approved form, nominates another person as an applicant for a visa of a particular class.

- (2) However, a person who proposes another person for entry to Australia as an applicant for a permanent humanitarian visa is not the *nominator* of the other person.

1.14 Orphan relative

An applicant for a visa is an orphan relative of another person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen if:

- (a) the applicant:
- (i) has not turned 18; and
 - (ii) does not have a spouse or de facto partner; and
 - (iii) is a relative of that other person; and
- (b) the applicant cannot be cared for by either parent because each of them is either dead, permanently incapacitated or of unknown whereabouts; and
- (c) there is no compelling reason to believe that the grant of a visa would not be in the best interests of the applicant.

1.14A Parent and child

- (1) A reference in these Regulations to a parent includes a step-parent.
- (2) For subsection 5CA (2) of the Act, if a child has been adopted under formal adoption arrangements mentioned in paragraph 1.04 (1) (a) or (b) by a person or persons (the *adoptive parent or parents*):
- (a) the child is taken to be the child of the adoptive parent or parents; and
 - (b) the child is taken not to be the child of any other person (including a person who had been the child's parent or adoptive parent before the adoption).

Note 1 A child cannot have more than 2 parents (other than step-parents) unless the child has been adopted under arrangements mentioned in paragraph 1.04 (1) (c).

Note 2 **Parent** is defined in subsection 5 (1) of the Act, and **child** is defined in section 5CA of the Act.

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1.15 Remaining relative

- (1) An applicant for a visa is a *remaining relative* of another person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen if the applicant satisfies the Minister that:
- (a) the other person is a parent, brother, sister, step-brother or step-sister of the applicant; and
 - (b) the other person is usually resident in Australia; and
 - (c) the applicant, and the applicant's spouse or de facto partner (if any), have no near relatives other than near relatives who are:
 - (i) usually resident in Australia; and
 - (ii) Australian citizens, Australian permanent residents or eligible New Zealand citizens; and
 - (d) if the applicant is a child who:
 - (i) has not turned 18; and
 - (ii) has been adopted by an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen (the *adoptive parent*) while overseas:

at the time of making the application, the adoptive parent has been residing overseas for a period of at least 12 months.
- (2) In this regulation:
- near relative*, in relation to an applicant, means a person who is:
- (a) a parent, brother, sister, step-brother or step-sister of the applicant or of the applicant's spouse or de facto partner (if any); or
 - (b) a child (including a step-child) of the applicant or of the applicant's spouse or de facto partner (if any), being a child who:
 - (i) has turned 18 and is not a dependent child of the applicant or the applicant's spouse or de facto partner (if any); or

- (ii) has not turned 18 and is not wholly or substantially in the daily care and control of the applicant or the applicant's spouse or de facto partner (if any).

1.15AA Carer

- (1) An applicant for a visa is a *carer* of a person who is an Australian citizen usually resident in Australia, an Australian permanent resident or an eligible New Zealand citizen (*the resident*) if:
 - (a) the applicant is a relative of the resident; and
 - (b) according to a certificate that meets the requirements of subregulation (2):
 - (i) a person (being the resident or a member of the family unit of the resident) has a medical condition; and
 - (ii) the medical condition is causing physical, intellectual or sensory impairment of the ability of that person to attend to the practical aspects of daily life; and
 - (iii) the impairment has, under the Impairment Tables, the rating that is specified in the certificate; and
 - (iv) because of the medical condition, the person has, and will continue for at least 2 years to have, a need for direct assistance in attending to the practical aspects of daily life; and
 - (c) the rating mentioned in subparagraph (b) (iii) is equal to, or exceeds, the impairment rating specified by Gazette Notice for this paragraph; and
 - (d) if the person to whom the certificate relates is not the resident, the resident has a permanent or long-term need for assistance in providing the direct assistance mentioned in subparagraph (b) (iv); and
 - (e) the assistance cannot reasonably be obtained:
 - (i) from any other relative of the resident, being a relative who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or

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- (ii) from welfare, hospital, nursing or community services in Australia; and
 - (f) the applicant is willing and able to provide to the resident substantial and continuing assistance of the kind needed under subparagraph (b) (iv) or paragraph (d), as the case requires.
- (2) A certificate meets the requirements of this subregulation if:
 - (a) it is a certificate:
 - (i) in relation to a medical assessment carried out on behalf of a health service provider specified by the Minister in an instrument in writing; and
 - (ii) signed by the medical adviser who carried it out; or
 - (b) it is a certificate issued by a health service provider specified by the Minister in an instrument in writing in relation to a review of an opinion in a certificate mentioned in paragraph (a), that was carried out by the health services provider in accordance with its procedures.
- (3) The Minister is to take the opinion in a certificate that meets the requirements of subregulation (2) on a matter mentioned in paragraph (1) (b) to be correct for the purposes of deciding whether an applicant satisfies a criterion that the applicant is a carer.
- (4) In this regulation:
Impairment Tables means the Tables for the Assessment of Work-related Impairment for Disability Support Pension in Schedule 1B to the *Social Security Act 1991*.

1.15A Spouse

- (1) For subsection 5F (3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5F (2) (a), (b), (c) and (d) of the Act exist.
- (2) If the Minister is considering an application for:
 - (a) a Partner (Migrant) (Class BC) visa; or
 - (b) a Partner (Provisional) (Class UF) visa; or
 - (c) a Partner (Residence) (Class BS) visa; or

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- (d) a Partner (Temporary) (Class UK) visa;
the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).
- (3) The matters for subregulation (2) are:
- (a) the financial aspects of the relationship, including:
 - (i) any joint ownership of real estate or other major assets; and
 - (ii) any joint liabilities; and
 - (iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and
 - (iv) whether one person in the relationship owes any legal obligation in respect of the other; and
 - (v) the basis of any sharing of day-to-day household expenses; and
 - (b) the nature of the household, including:
 - (i) any joint responsibility for the care and support of children; and
 - (ii) the living arrangements of the persons; and
 - (iii) any sharing of the responsibility for housework; and
 - (c) the social aspects of the relationship, including:
 - (i) whether the persons represent themselves to other people as being married to each other; and
 - (ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
 - (iii) any basis on which the persons plan and undertake joint social activities; and
 - (d) the nature of the persons' commitment to each other, including:
 - (i) the duration of the relationship; and
 - (ii) the length of time during which the persons have lived together; and
 - (iii) the degree of companionship and emotional support that the persons draw from each other; and

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- (iv) whether the persons see the relationship as a long-term one.
- (4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).

1.15B Vocational English

- (1) *Vocational English*, for a person, has the meanings given in subregulations (2), (3), (4) and (5).
- (2) If a person applied, before 1 July 1999, for a visa a criterion for the grant of which is that the person has vocational English, the person has *vocational English* if the person satisfies the Minister that the person is proficient in English to at least the standard required for the award of 15 points in the language skill factor of the general points test specified in Part 3 of Schedule 6.
- (3) If a person applies, on or after 1 July 1999, for a visa (other than a General Skilled Migration visa) a criterion for the grant of which is that the person has vocational English, the person has *vocational English* if the person satisfies the Minister that the person has achieved an IELTS test score of at least 5 for each of the 4 test components of speaking, reading, writing and listening in a test conducted:
 - (a) not more than 12 months before the day on which the application was lodged; or
 - (b) during the processing of the application.
- (4) If a person applies, on or after 1 July 1999, for a visa (other than a General Skilled Migration visa) a criterion for the grant of which is that the person has vocational English, the person has vocational English if:
 - (a) the person does not have an IELTS test score in a test conducted:
 - (i) not more than 12 months before the day on which the application was lodged; or
 - (ii) during the processing of the application; and

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- (b) the Minister:
 - (i) determines that it is not reasonably practicable, or not necessary, for the person to be tested using the IELTS test; and
 - (ii) is satisfied that the person is proficient in English to a standard that is not less than the standard required under subregulation (3).
- (5) If a person applies for a General Skilled Migration visa, the person has *vocational English* if the person satisfies the Minister that the person has achieved, in a test conducted not more than 2 years before the day on which the application was lodged:
 - (a) an IELTS test score of at least 5 for each of the 4 test components of speaking, reading, writing and listening; or
 - (b) a score:
 - (i) specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) in a language test specified by the Minister in the instrument.

1.15C Competent English

If a person applies for a General Skilled Migration visa, the person has *competent English* if the person satisfies the Minister that the person:

- (a) has achieved, in a test conducted not more than 2 years before the day on which the application was lodged:
 - (i) an IELTS test score of at least 6 for each of the 4 test components of speaking, reading, writing and listening; or
 - (ii) a score:
 - (A) specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) in a language test specified by the Minister in the instrument; or
- (b) holds a passport of a type specified by the Minister in an instrument in writing for this paragraph.

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1.15D Proficient English

If a person applies for a General Skilled Migration visa, the person has ***proficient English*** if the person satisfies the Minister that the person has achieved, in a test conducted not more than 2 years before the day on which the application was lodged:

- (a) an IELTS test score of at least 7 for each of the 4 test components of speaking, reading, writing and listening; or
- (b) a score:
 - (i) specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) in a language test specified by the Minister in the instrument.

1.15E Concessional competent English

Subclass 475 (Skilled — Regional Sponsored) visa

- (1) If a person applies for a Subclass 475 (Skilled — Regional Sponsored) visa, the person has ***concessional competent English*** if the person satisfies the Minister that the person has achieved, in a test conducted not more than 2 years before the day on which the application was made:
 - (a) an IELTS test average band score of at least 6 for the 4 test components of speaking, reading, writing and listening; or
 - (b) a score:
 - (i) specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) in a language test specified by the Minister in the instrument.

Subclass 487 (Skilled — Regional Sponsored) visa

- (2) If a person applies for a Subclass 487 (Skilled — Regional Sponsored) visa, the person has ***concessional competent English*** if the person satisfies the Minister that the person has achieved, in a test conducted not more than 2 years before the day on which the application was made:

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- (a) an IELTS test average band score of at least 5.5 for the 4 test components of speaking, reading, writing and listening; or
- (b) a score:
 - (i) specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) in a language test specified by the Minister in the instrument.

1.15F Australian study requirement

- (1) A person satisfies the *Australian study requirement* if the person satisfies the Minister that the person has completed 1 or more degrees, diplomas or trade qualifications for award by an Australian educational institution as a result of a course or courses:
 - (a) that are registered courses; and
 - (b) that were completed in a total of at least 16 calendar months; and
 - (c) that were completed as a result of a total of at least 2 academic years study; and
 - (d) for which all instruction was conducted in English; and
 - (e) that the applicant undertook while in Australia as the holder of a visa authorising the applicant to study.

Note *Academic year* is defined in regulation 1.03.

- (2) In this regulation:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can *complete* a degree, diploma or trade qualification, for subregulation (2), before the award is formally conferred.

degree has the meaning given in subregulation 2.26A (6).

diploma has the meaning given in subregulation 2.26A (6).

trade qualification has the meaning given in subregulation 2.26A (6).

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1.15G Superyachts

The Minister may, by instrument in writing, specify that:

- (a) a sailing ship of a particular kind is a superyacht for the purposes of these Regulations; or
- (b) a motor vessel of a particular kind is a superyacht for the purposes of these Regulations.

Division 1.3 Administration

1.16 Delegation

- (1) The Minister may, by writing signed by the Minister, delegate to an officer any of the Minister's powers under these Regulations, other than this power of delegation.
- (2) The Secretary may, by writing signed by the Secretary, delegate to an officer any of the Secretary's powers under these Regulations, other than this power of delegation.

1.16AA Appointment of Medical Officer of the Commonwealth

The Minister may, by writing signed by the Minister, appoint a medical practitioner to be a Medical Officer of the Commonwealth for the purposes of these Regulations.

1.16A Regional headquarters agreements

If an organisation that has its head office outside Australia wishes to establish a regional headquarters in Australia, the Minister and the Industry Minister may enter into an agreement with the organisation to provide for the entry to, and stay in, Australia of staff members of the organisation for the purposes of the regional headquarters.

1.16B Invest Australia Supported Skills agreements

If an organisation that has its head office outside Australia wishes to make a significant investment in Australia, the Minister and the Industry Minister may enter into an agreement

with the organisation to provide for the entry to, and stay in, Australia of staff members of the organisation for the purposes of the investment.

1.17 Specification of matters by Gazette Notice

The Minister may, by notice published in the *Gazette*, specify matters required by individual provisions of these Regulations to be specified for the purposes of those provisions.

1.18 Approved forms

- (1) The Minister may, in writing, approve forms for:
 - (a) use in making an application for a visa; or
 - (b) any other purpose authorised or required by these Regulations.
- (2) Each of the following is an approved form for use in making an application for a visa:
 - (a) a paper form;
 - (b) a set of questions in an interactive computer program that is:
 - (i) approved by the Minister for use in making an application for the visa; and
 - (ii) made available at an Internet site operated under the authority of the Minister;
 - (c) a set of questions in a form that:
 - (i) is stored in an electronic format; and
 - (ii) is approved by the Minister for use in making an application for the visa.

1.19 Occupations requiring English list

The Minister may publish by notice in the *Gazette* a list of occupations requiring proficiency in English of at least the standard required for the award of 15 points under Part 3 of Schedule 6.

Note Part 3 of Schedule 6 deals with the award of points on the basis of an applicant's language skills.

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Division 1.4 Sponsorship

1.20 Sponsorship

- (1) The *sponsor* of an applicant for a visa is a person (except a person who proposes on the relevant approved form another person for entry to Australia as an applicant for a permanent humanitarian visa) who undertakes the obligations stated in subregulation (2) in relation to the applicant.
- (2) Subject to subregulation (4), the obligations of a sponsor in relation to an applicant for a visa are the following:
 - (a) if the application is for a permanent visa (other than a Partner (Migrant) (Class BC) or Partner (Residence) (Class BS) visa) — the sponsor undertakes to assist the applicant, to the extent necessary, financially and in relation to accommodation:
 - (i) if the applicant is in Australia — during the period of 2 years immediately following the grant of that visa; or
 - (ii) if the applicant is outside Australia — during the period of 2 years immediately following the applicant's first entry into Australia under that visa; including any period of participation by the applicant in the program known as the Adult Migrant English Program administered by Immigration that falls within that period;
 - (b) if the application is for a temporary visa (other than a Resolution of Status (Temporary) (Class UH), Partner (Provisional) (Class UF), Partner (Temporary) (Class UK), Extended Eligibility (Temporary) (Class TK), Sponsored Training (Temporary) (Class UV) or Superyacht Crew (Temporary) (Class UW) visa) — the sponsor undertakes to accept responsibility for:
 - (i) all financial obligations to the Commonwealth incurred by the applicant arising out of the applicant's stay in Australia; and
 - (ii) compliance by the applicant with all relevant legislation and awards in relation to any employment entered into by the applicant in Australia; and

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- (iii) unless the Minister otherwise decides, compliance by the applicant with the conditions under which the applicant was allowed to enter Australia;
- (c) if the application is a concurrent application for a Partner (Provisional) (Class UF) and a Partner (Migrant) (Class BC) visa or a Partner (Temporary) (Class UK) and a Partner (Residence) (Class BS) visa, the sponsor undertakes to assist the applicant, to the extent necessary, financially and in relation to accommodation:
 - (i) if the applicant is in Australia — during the period of 2 years immediately following the grant of the provisional or temporary visa; or
 - (ii) if the applicant is outside Australia — during the period of 2 years immediately following the applicant's first entry into Australia after the grant of the provisional or temporary visa;
- (d) if the application is for a Resolution of Status (Temporary) (Class UH) visa made by an applicant who is outside Australia — the sponsor undertakes to assist the applicant, to the extent necessary, financially and in respect of accommodation, during the period of 2 years immediately following the applicant's entry into Australia as the holder of the visa;
- (e) if the application is for an Extended Eligibility (Temporary) (Class TK) visa, the sponsor undertakes to assist the applicant, to the extent necessary, financially and in relation to accommodation:
 - (i) if the applicant is in Australia — for the 2 years immediately after the visa is granted; or
 - (ii) if the applicant is outside Australia — for the 2 years immediately after the applicant's first entry into Australia after the visa is granted;
- (f) if the application is for a Superyacht Crew (Temporary) (Class UW) visa, the sponsor undertakes to accept responsibility for:
 - (i) all financial obligations to the Commonwealth incurred by the applicant arising out of the applicant's stay in Australia; and

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- (ii) compliance with the standards for wages and working conditions under all relevant legislation and awards in relation to employment entered into by the applicant in Australia; and
 - (iii) unless the Minister otherwise decides, compliance by the applicant with the conditions under which the applicant was allowed to enter Australia.
- (3) A person who has been approved by the Minister as the sponsor of an applicant for a visa must enter into the sponsorship by completing the relevant approved form and give it to the Minister not later than a reasonable period after the Minister approves the person as a sponsor.
- (4) This regulation does not apply to a visa in the following classes or subclasses:
 - (a) Business Skills (Migrant) (Class AD);
 - (b) Business Skills — Business Talent (Migrant) (Class EA);
 - (c) Business Skills — Established Business (Residence) (Class BH);
 - (d) Business Skills (Residence) (Class BH);
 - (e) Business Skills (Residence) (Class DF);
 - (f) Business Skills (Provisional) (Class UR);
 - (g) Skilled — Independent Regional (Provisional) (Class UX);
 - (h) Subclass 457 (Business (Long Stay)).

Note Sponsorship arrangements for Subclass 457 (Business (Long Stay)) visas are set out in Division 1.4A of these Regulations.
- (5) This regulation does not apply to:
 - (a) a Subclass 571 (Schools Sector) visa; or
 - (b) a Subclass 572 (Vocational Education and Training Sector) visa; or
 - (c) a Subclass 573 (Higher Education Sector) visa; or
 - (d) a Subclass 574 (Postgraduate Research Sector) visa;if the applicant for the visa is a person designated under regulation 2.07AO, or is applying on the basis of being a member of the family unit of a person designated under regulation 2.07AO.

1.20AA Approval of sponsor — specified temporary visa applicants

- (1) This regulation applies to the following subclasses of visa:
 - (a) a Subclass 415 (Foreign Government Agency) visa;
 - (b) a Subclass 418 (Educational) visa;
 - (c) a Subclass 420 (Entertainment) visa;
 - (d) a Subclass 421 (Sport) visa;
 - (e) a Subclass 422 (Medical Practitioner) visa;
 - (f) a Subclass 423 (Media and Film Staff) visa;
 - (g) a Subclass 427 (Domestic Worker (Temporary) — Executive) visa;
 - (h) a Subclass 428 (Religious Worker) visa.
- (2) The Minister may approve or refuse to approve a person or an organisation (including a school, foreign government agency or an unincorporated association) as a sponsor of:
 - (a) an applicant for the visa; or
 - (b) multiple applicants for the same subclass of visa.
- (3) In considering an application for approval of a proposed sponsor:
 - (a) the Minister must have regard to the capacity of the proposed sponsor to comply with the undertakings mentioned in paragraph 1.20 (2) (b); and
 - (b) the Minister may have regard to any other matter that the Minister considers relevant.
- (4) Nothing in this regulation limits or affects in any way the matters to which the Minister may have regard in considering an application for the approval of a proposed sponsor in relation to any other kind of visa application to which regulation 1.20 applies.

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**Division 1.4A Temporary business entry:
sponsorship and nomination**

1.20A Object of this Division

The object of this Division is to provide for:

- (a) applications for approval as a business sponsor; and
- (b) nominations by business sponsors of activities to be undertaken in Australia by prospective holders of Subclass 457 (Business (Long Stay)) visas; and
- (c) approval of those applications and nominations; and
- (d) prescribed grounds for cancellation of approvals as a business sponsor.

1.20B Interpretation

In this Division:

minimum salary level means a level of salary worked out in the way specified in a Gazette Notice for the purposes of this definition.

person includes an unincorporated body of persons.

pre-qualified business sponsor means a person:

- (a) whose application for approval as a pre-qualified business sponsor was approved in accordance with regulation 1.20D before 1 July 2003; or
- (b) whose application for approval as a pre-qualified business sponsor is:
 - (i) mentioned in subregulation 1.20CA (1); and
 - (ii) approved in accordance with regulation 1.20D as in force immediately before 1 July 2003;

and includes a person whose approval as a pre-qualified sponsor has been renewed under regulation 1.20E as in force immediately before 1 July 2003.

Note From 1 July 2003, an application for approval as a pre-qualified business sponsor, made before 1 July 2003, will be dealt with under regulation 1.20D as in force immediately before 1 July 2003: see subregulation 1.20CA (1).

sponsored person means:

- (a) in relation to an applicant for approval as a standard business sponsor:
 - (i) a person who:
 - (A) seeks to be granted a Subclass 457 (Business (Long Stay)) visa on the basis that the requirements of subclause 457.223 (4) or (5) of Schedule 2 are met; and
 - (B) if granted that visa, would be in the employment of the standard business sponsor or a related body corporate; or
 - (ii) a person who is a member of the family unit of a person who is described in subparagraph (i); and
- (b) in relation to a standard business sponsor:
 - (i) a person who:
 - (A) holds a Subclass 457 (Business (Long Stay)) visa granted on the basis that the requirements of subclause 457.223 (4) or (5) of Schedule 2 are met; and
 - (B) is, or would be, in the employment of the standard business sponsor or a related body corporate; or
 - (ii) a person who is a member of the family unit of a person who is described in subparagraph (i).

Note 1 See paragraph 1.20D (2) (b) of these Regulations for information about related bodies corporate.

Note 2 An applicant for approval as a standard business sponsor makes undertakings in relation to a sponsored person (see regulation 1.20CB of these Regulations), but these undertakings do not take effect until:

- (a) the applicant has been approved as a sponsor under subsection 140E (1) of the Act, and has consented to sponsor the sponsored person in accordance with paragraph 140D (a) of the Act; and
- (b) the sponsored person is granted a Subclass 457 (Business (Long Stay)) visa (see subsection 140H (3) of the Act).

standard business sponsor means a person:

- (a) whose application for approval as a standard business sponsor was approved in accordance with regulation 1.20D before 1 July 2003; or

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- (b) whose application for approval as a standard business sponsor is:
 - (i) mentioned in subregulation 1.20CA (1); and
 - (ii) approved in accordance with regulation 1.20D as in force before 1 July 2003; or
- (c) whose application for approval as a standard business sponsor is:
 - (i) made on or after 1 July 2003; and
 - (ii) approved in accordance with regulation 1.20D or 1.20DA.

Note From 1 July 2003, an application for approval as a standard business sponsor, made before 1 July 2003, is to be dealt with under regulation 1.20D as in force before 1 July 2003: see subregulation 1.20CA (1).

1.20BA Application of Division 3A of Part 2 of the Act

For section 140A of the Act, Division 3A of Part 2 of the Act applies to the following kinds of visas:

- (a) a Subclass 457 (Business (Long Stay)) visa granted on the basis that the requirements of subclause 457.223 (4) of Schedule 2 were met;
- (b) a Subclass 457 (Business (Long Stay)) visa granted on the basis that the requirements of subclause 457.223 (5) of Schedule 2 were met;
- (c) a Subclass 457 (Business (Long Stay)) visa granted to a person who is a member of the family unit of a person who has been granted a Subclass 457 (Business (Long Stay)) visa on the basis that the requirements of subclause 457.223 (4) or (5) of Schedule 2 were met.
of a person who has been granted a Subclass 457 (Business (Long Stay)) visa on the basis that the requirements of subclause 457.223 (4) or (5) of Schedule 2 were met.

1.20C Application for approval as standard business sponsor

- (1) For subsection 140F (1) of the Act, a person (other than a person to which subregulation (1A) applies) may apply to the

Minister for approval as a standard business sponsor in accordance with this regulation.

Note 1 From 1 July 2003, 2 kinds of business sponsorship are provided for by these Regulations: standard business sponsorship approved under regulation 1.20D and standard business sponsorship approved under regulation 1.20DA (which relates to overseas businesses). The option of pre-qualified business sponsorship that was previously set out in this regulation has been removed.

However, an application for approval as a standard business sponsor, or a pre-qualified business sponsor, made before 1 July 2003 but not approved or rejected before 1 July 2003, will continue to be dealt with under regulation 1.20D as in force before 1 July 2003.

Note 2 In relation to the effect of approval as a standard business sponsor under regulation 1.20D, see subregulation 1.20D (6) and subclause 457.223 (4) of Schedule 2. In relation to the effect of approval as a standard business sponsor under regulation 1.20DA, see subregulation 1.20DA (5) and subclause 457.223 (5) of Schedule 2.

- (1A) This subregulation applies to a person if:
- (a) the person's business activities include activities relating to either or both of:
 - (i) the recruitment of labour for supply to other unrelated businesses; and
 - (ii) the hiring of labour to other unrelated businesses; and
 - (b) the person proposes to act as a standard business sponsor for the purpose of supplying to another unrelated business the services of an applicant for a visa in relation to a nominated activity.

Example

A person who proposes to sponsor a person to come to Australia for the purpose of hiring out the visa holder's services, rather than to work directly in the person's business.

- (2) The application must be made:
- (a) if the application is made by an applicant for approval as a standard business sponsor who is actively and lawfully operating a business outside Australia — in accordance with approved form 1196; or
 - (b) in any other case — in accordance with approved form 1196 or 1196 (Internet).

Regulation 1.20CA

- (3) The application must be accompanied by a fee of \$345.

1.20CA Business sponsors — transitional arrangements for 1 July 2003

- (1) An application for approval as a standard business sponsor or as a pre-qualified business sponsor:
- (a) made under regulation 1.20C before 1 July 2003; and
 - (b) that had not been approved or rejected before 1 July 2003; is to be dealt with (including for the purpose of review under Part 5 of the Act), on and after 1 July 2003, in accordance with regulation 1.20D as in force immediately before 1 July 2003.
- (2) If:
- (a) a person gave the Minister approved form 1067 before 1 July 2003, for a purpose other than making an application; and
 - (b) the form had not been dealt with before 1 July 2003; the form is to be dealt with, on and after 1 July 2003, in accordance with regulation 1.20G as in force immediately before 1 July 2003.
- (3) If a pre-qualified business sponsor sought a renewal of the approval as a pre-qualified business sponsor under regulation 1.20E as in force immediately before 1 July 2003, the renewal is to be dealt with, on and after 1 July 2003, in accordance with regulation 1.20E as in force immediately before 1 July 2003.
- (4) If:
- (a) an application for approval as a standard business sponsor or as a pre-qualified business sponsor was made under regulation 1.20C before 1 July 2003; and
 - (b) a decision that was made in respect of the application was subject to a form of review under Part 5 of the Act immediately before 1 July 2003; the application is to be dealt with, on and after 1 July 2003, in accordance with regulation 1.20D as in force immediately before 1 July 2003.

1.20CB Sponsorship undertakings

- (1) For subsection 140H (1) of the Act, an applicant for approval as a standard business sponsor must make the following undertakings:
 - (a) to ensure that the cost of return travel by a sponsored person is met;
 - (b) not to employ a person who would be in breach of the immigration laws of Australia as a result of being employed;
 - (c) to comply with its responsibilities under the immigration laws of Australia;
 - (d) to notify Immigration of:
 - (i) any change in circumstances that may affect the business's capacity to honour its sponsorship undertakings; or
 - (ii) any change to the information that contributed to the applicant's being approved as a sponsor, or the approval of a nomination;
 - (e) to cooperate with the Department's monitoring of the applicant and the sponsored person;
 - (f) to notify Immigration, within 5 working days after a sponsored person ceases to be in the applicant's employment;
 - (g) to comply with:
 - (i) laws relating to workplace relations that are applicable to the applicant; and
 - (ii) any workplace agreement that the applicant may enter into with a sponsored person, to the extent that the agreement is consistent with the undertaking required by paragraph (i);
 - (h) to ensure that a sponsored person holds any licence, registration or membership that is mandatory for the performance of work by the person;
 - (i) to ensure that, if there is a gazetted minimum salary in force in relation to the nominated position occupied by a sponsored person, the person will be paid at least that salary;

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- (j) to ensure that, if it is a term of the approval of the nomination of a position that a sponsored person must be employed in a particular location, the applicant will notify Immigration of any change in the location which would affect the nomination approval;
- (k) either:
 - (i) for an application made before 1 November 2005 — to pay all medical or hospital expenses for a sponsored person (other than costs that are met by health insurance arrangements); or
 - (ii) for an application made on or after 1 November 2005 — to pay all medical or hospital expenses for a sponsored person arising from treatment administered in a public hospital (other than expenses that are met by health insurance or reciprocal health care arrangements);
- (l) to make any superannuation contributions required for a sponsored person while the sponsored person is in the applicant's employment;
- (m) to deduct tax instalments, and make payments of tax, while the sponsored person is in the applicant's employment;
- (n) to pay to the Commonwealth an amount equal to all costs incurred by the Commonwealth in relation to a sponsored person.

Note Under subsection 140H (3) of the Act, these undertakings do not have effect until the relevant visa is granted. Under paragraph 457.223 (4) (i) or (5) (j) of Schedule 2 to these Regulations, a person must be sponsored by an approved sponsor in order to be granted a Subclass 457 (Business (Long Stay)) visa. See also regulation 1.20BA of these Regulations, by which Division 3A of Part 2 of the Act applies to visas that are relevant to standard business sponsors.

- (2) For paragraph (1) (n), the costs include the cost of:
 - (a) locating the sponsored person; and
 - (b) detaining the sponsored person; and
 - (c) removing the sponsored person from Australia (including airfares, transport to an airport in Australia and provision of an escort (if needed)); and

- (d) processing an application for a protection visa made by a sponsored person.

Note An undertaking is not enforceable in relation to costs of locating and detaining a sponsored person that exceed the limit prescribed by regulation 1.20CC.

1.20CC Limit in relation to costs of location and detention

For subsection 140I (4) of the Act, the limit (over which an undertaking in relation to the costs of the Commonwealth in locating and detaining a sponsored person is not enforceable) is \$10 000.

1.20D Approval as standard business sponsor

- (1) For subsections 140E (1), 140F (1) and 140G (1) of the Act, the Minister must, in accordance with this regulation, approve or reject an application for approval as a standard business sponsor made under regulation 1.20C.

Note An application for approval as a standard business sponsor or a pre-qualified business sponsor made under regulation 1.20C as in force before 1 July 2003 is to be dealt with under regulation 1.20D as in force before 1 July 2003: see subregulation 1.20CA (1).

- (2) Subject to subregulations (2A) and (2B), the Minister must approve the application if:
- (a) the Minister is satisfied that the applicant for approval is actively and lawfully operating in Australia a business in which the employment of the holder of a Subclass 457 (Business (Long Stay)) visa would contribute to:
- (i) the creation or maintenance of employment for Australian citizens or Australian permanent residents; or
 - (ii) expansion of Australian trade in goods or services; or
 - (iii) the improvement of Australian business links with international markets; or
 - (iv) competitiveness within sectors of the Australian economy; and

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- (b) in respect of each visa applicant who seeks to satisfy the primary criteria for a Subclass 457 visa to be granted on the basis that:
 - (i) the applicant for approval is the employer referred to in subclause 457.223 (4) of Schedule 2 in relation to the visa application; and
 - (ii) the visa applicant satisfies the requirements of that subclause;the Minister is satisfied that:
 - (iii) the applicant for approval proposes to be the direct employer in Australia of the visa applicant as the holder of the visa (*the visa holder*); or
 - (iv) if the applicant for approval is a body corporate — the applicant for approval is, under section 50 of the *Corporations Act 2001*, related to the body corporate that proposes to be the direct employer in Australia of the visa holder; and
- (c) the Minister is satisfied that the applicant for approval:
 - (i) will introduce to, or utilise or create in, Australia new or improved technology or business skills; or
 - (ii) has a satisfactory record of, or a demonstrated commitment towards, training Australian citizens and Australian permanent residents in the business operations of the applicant in Australia; and
- (ca) the applicant for approval has attested in writing that the applicant has a strong record of, or a demonstrated commitment to:
 - (i) employing local labour; and
 - (ii) non-discriminatory employment practices; and
- (e) the Minister is satisfied that where relevant, the applicant for approval has a satisfactory record of compliance with the immigration laws of Australia; and
- (f) the Minister is satisfied that while there is in effect a Subclass 457 visa granted on the basis that:
 - (i) the applicant for approval is the employer referred to in subclause 457.223 (4) of Schedule 2 in relation to a visa application; and

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- (ii) the visa holder satisfies the requirements of that subclause;
the applicant for approval is able, in relation to each visa holder, to comply with the undertakings given by the applicant in accordance with approved form 1196 or 1196 (Internet); and
 - (g) the Minister is satisfied that, if an authorised officer requires security for compliance with the provisions of the Act and these Regulations in relation to the applicant's undertakings as a sponsor, the applicant has given the security.
- (2A) Subject to subregulation (2B), the Minister must not approve the application if:
- (a) the Minister is aware that adverse information is known to Immigration about the business background of:
 - (i) the applicant for approval; or
 - (ii) any officer or other senior or responsible person of any of the entities that constitute the applicant for approval; or
 - (iii) any individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the applicant for approval; or
 - (b) the Minister is aware that:
 - (i) the applicant for approval is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; or
 - (ii) an officer or other senior or responsible person of any of the entities that constitute the applicant for approval is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or

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- (B) an alleged breach of a law of the Commonwealth or a State or Territory; or
 - (iii) an individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the applicant for approval is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory;
- (2B) The Minister may approve the application, despite subregulation (2A), if he or she considers it reasonably appropriate to do so.

Note Circumstances in which it may be reasonably appropriate for the Minister to approve the application, despite the existence of adverse information about the business background of the sponsor or an investigation for breach of an undertaking or non-compliance with Australian law, could include a situation in which the adverse information or the potential outcome of the investigation would not, in the Minister's opinion, result in the sponsorship applicant being deemed unfit to be a sponsor.

- (3) In subparagraphs (2A) (a) (ii) and (b) (ii):
officer, for a corporation, means an officer of the corporation within the meaning of the *Corporations Act 2001*.
- (4) An approval of a person as a standard business sponsor must specify the maximum number of nominations of business activities, being a number not exceeding the number proposed in the application for approval, that may be approved under regulation 1.20H in relation to the standard business sponsor while the approval is in effect.
- (5) As soon as practicable after deciding the application:
(a) the Minister must provide the applicant with:
 - (i) a copy of the written approval or rejection of the application; and
 - (ii) if the application is rejected, a statement of the reasons why the application was not approved; and

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- (b) if the application was made using approved form 1196 (Internet), the Minister may provide the applicant with those documents in electronic form.
- (6) An approval of a person as a standard business sponsor ceases to have effect on the earliest of:
 - (a) when the number of Subclass 457 visas granted, since the giving of the approval, on the basis that:
 - (i) the applicant satisfies the primary criteria; and
 - (ii) the standard business sponsor is the employer (within the meaning of subclause 457.223 (4) of Schedule 2);is equal to the number of nominations of business activities determined under subregulation (4) in relation to that approval of that standard business sponsor; and
 - (b) the end of the period of 24 months commencing on the day on which the approval is given; and
 - (c) cancellation of the approval under section 137B of the Act.

1.20DA Approval as standard business sponsor — overseas business

- (1) For subsections 140E (1), 140F (1) and 140G (1) of the Act, the Minister must, in accordance with this regulation, approve or reject an application for approval as a standard business sponsor made under regulation 1.20C.
- (2) Subject to subregulations (2A) and (2B), the Minister must approve the application if:
 - (a) the Minister is satisfied that the applicant for approval is actively and lawfully operating outside Australia a business in which the employment in Australia of the holder of a Subclass 457 (Business (Long Stay)) visa would contribute to:
 - (i) the creation or maintenance of employment for Australian citizens or Australian permanent residents; or
 - (ii) expansion of Australian trade in goods or services; or

Regulation 1.20DA

- (iii) the improvement of Australian business links with international markets; or
 - (iv) competitiveness within sectors of the Australian economy; and
- (b) in respect of each visa applicant who seeks to satisfy the primary criteria for a Subclass 457 visa to be granted on the basis that:
- (i) the applicant for approval is the employer referred to in subclause 457.223 (5) of Schedule 2 in relation to the visa application; and
 - (ii) the visa applicant satisfies the requirements of that subclause;
- the Minister is satisfied that:
- (iii) the applicant for approval proposes to be the direct employer in Australia of the visa applicant as the holder of the visa (in this subregulation called ***the visa holder***); or
 - (iv) if the applicant for approval is a body corporate — the applicant for approval is, under section 50 of the *Corporations Act 2001*, related to the body corporate that proposes to be the direct employer in Australia of the visa holder; and
- (d) the Minister is satisfied that where relevant, the applicant for approval has a satisfactory record of compliance with the immigration laws of Australia; and
- (e) the Minister is satisfied that while there is in effect a Subclass 457 visa granted on the basis that:
- (i) the applicant for approval is the employer referred to in subclause 457.223 (5) of Schedule 2 in relation to a visa application; and
 - (ii) the visa holder satisfies the requirements of that subclause;
- the applicant for approval is able, in relation to each visa holder, to comply with the undertakings given by the applicant in accordance with approved form 1196; and

Regulation 1.20DA

- (f) the Minister is satisfied that, if an authorised officer requires security for compliance with the provisions of the Act and these Regulations in relation to the applicant's undertakings as a sponsor, the applicant has given the security.
- (2A) Subject to subregulation (2B), the Minister must not approve the application if:
 - (a) the Minister is aware that adverse information is known to Immigration about the business background of:
 - (i) the applicant for approval; or
 - (ii) any officer or other senior or responsible person of any of the entities that constitute the applicant for approval; or
 - (iii) any individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the applicant for approval; or
 - (b) the Minister is aware that:
 - (i) the applicant for approval is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; or
 - (ii) an officer or other senior or responsible person of any of the entities that constitute the applicant for approval is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; or
 - (iii) an individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the applicant for approval is under investigation or subject to legal action in relation to:

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- (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory;
- (2B) The Minister may approve the application, despite subregulation (2A), if he or she considers it reasonably appropriate to do so.

Note Circumstances in which it may be reasonably appropriate for the Minister to approve the application, despite the existence of adverse information about the business background of the sponsor or an investigation for breach of an undertaking or non-compliance with Australian law, could include a situation in which the adverse information or the potential outcome of the investigation would not, in the Minister's opinion, result in the sponsorship applicant being deemed unfit to be a sponsor.

- (2C) In subparagraphs (2A) (a) (ii) and (b) (ii):
officer, for a corporation, means an officer of the corporation within the meaning of the *Corporations Act 2001*.
- (3) An approval of a person as a standard business sponsor must specify the maximum number of nominations of business activities, being a number not exceeding the number proposed in the application for approval, that may be approved under regulation 1.20H in relation to the standard business sponsor while the approval is in effect.
 - (4) As soon as practicable after deciding the application, the Minister must provide the applicant with:
 - (a) a copy of the written approval or rejection of the application; and
 - (b) if the application is rejected, a statement of the reasons why the application was not approved.
 - (5) An approval of a person as a standard business sponsor ceases to have effect on the earliest of:
 - (a) when the number of Subclass 457 visas granted, since the giving of the approval, on the basis that:
 - (i) the applicant satisfies the primary criteria; and

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- (ii) the standard business sponsor is the employer (within the meaning of subclause 457.223 (5) of Schedule 2);
 is equal to the number of nominations of business activities determined under subregulation (3) in relation to that approval of that standard business sponsor; and
- (b) the end of the period of 24 months commencing on the day on which the approval is given; and
- (c) cancellation of the approval under section 137B of the Act.

1.20DB Consequences if approved business sponsor or sponsored person changes status

For subsection 140Q (1) of the Act, an undertaking arising out of the sponsorship of the holder of a visa to which Division 3A of Part 2 of the Act applies remains enforceable against the sponsor concerned until the time set out in the following table.

Note 1 See regulation 1.20BA for the visas to which Division 3A of Part 2 of the Act applies.

Note 2 The effect of subsection 140Q (1) of the Act is that, if no regulations are prescribed for a particular undertaking arising out of a sponsorship, the undertaking ceases to be enforceable if:

- (a) the visa holder ceases to hold the visa for which he or she was sponsored; or
- (b) the sponsor ceases to be an approved sponsor of the visa holder for the visa.

Item	The undertaking set out in	Remains enforceable until
1	Paragraph 1.20CB (1) (e)	The earlier of: <ul style="list-style-type: none"> (a) if the sponsored person ceases to hold the visa for which he or she was sponsored — the earlier of: <ul style="list-style-type: none"> (i) the time when the person leaves Australia; and (ii) the time when the person is granted a substantive visa; and (b) the time when the sponsor ceases to be an approved sponsor of the sponsored person

Regulation 1.20E

Item	The undertaking set out in	Remains enforceable until
2	Paragraph 1.20CB (1) (k)	The time when the expenses are paid
3	Paragraph 1.20CB (1) (n)	The time when the amount is paid

Note Undertakings made by an approved standard business sponsor in relation to a sponsored person do not have effect until a visa is granted to the sponsored person: see subsection 140H (3) of the Act.

1.20E Term of approval as standard business sponsor

For subsection 140G (2) of the Act, a term of approval as a sponsor under regulation 1.20D or 1.20DA is that the approval ceases, in relation to a particular sponsored person, on the earliest of the following:

- (a) at the end of 28 days after the standard business sponsor notifies Immigration that the sponsored person has ceased to be in the applicant's employment;
- (b) if the sponsored person ceases to hold the visa for which he or she was sponsored — when the person leaves Australia;
- (c) if the sponsored person ceases to hold the visa for which he or she was sponsored — when the person is granted a substantive visa.

1.20F Prescribed grounds for cancellation of approval as a business sponsor (Act s 137B)

For subsection 137B (1) of the Act, the following grounds are prescribed:

- (a) the person gave incorrect information to Immigration in relation to:
 - (i) an application under regulation 1.20C, as in force before 1 July 2003, for approval as a standard business sponsor or a pre-qualified business sponsor;or

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- (ii) an application under regulation 1.20C, as in force on or after 1 July 2003, for approval as a standard business sponsor;
- (b) the person gave incorrect information to Immigration in relation to any other matter relating to the person;
- (c) the person has not complied, or is not complying, with the undertakings given by the person in accordance with approved form 1067, 1196 or 1196 (Internet);
- (d) the person does not continue to satisfy the requirements that the person satisfied for approval as:
 - (i) a pre-qualified business sponsor; or
 - (ii) a standard business sponsor.

Note If the Minister decides to cancel an approval of a person as a business sponsor, the Minister is to give the person a written notice of the decision: see section 137D of the Act.

1.20G Nomination of business activities

- (1) A person who:
 - (a) is a party to a labour agreement; or
 - (b) is a pre-qualified business sponsor; or
 - (c) is a standard business sponsor (other than a person to which subregulation (3A) applies); or
 - (d) before 1 July 2003:
 - (i) did not operate a business in Australia; and
 - (ii) gave the Minister undertakings in accordance with approved form 1067; and
 - (iii) was a person whom the Minister was satisfied (apart from not operating a business in Australia) would, on application, have been likely to have been approved as a standard business sponsor; or
 - (e) is a party to an IASS agreement;
may nominate to the Minister an activity in which an individual is proposed to be employed by the person in Australia.
- (2) Subject to subregulation (2A), if the person is mentioned in paragraph (1) (b), (c), (d) or (e), the tasks of the nominated activity must correspond to the tasks of an occupation specified in a Gazette Notice for the purposes of this subregulation.

Regulation 1.20G

- (2A) If:
- (a) a person nominated an activity under regulation 1.20G or 1.20GA as a standard business sponsor; and
 - (b) at the time at which the Minister considers the nomination under regulation 1.20H:
 - (i) the tasks of the nominated activity no longer correspond to the tasks of an occupation as described in subregulation (2) or subparagraph 1.20GA (1) (a) (i); and
 - (ii) the person who made the nomination has become a party to a labour agreement of which that activity is the subject;
- the nomination is to be taken to have been made by the person under regulation 1.20G, as a party to a labour agreement, and for regulation 1.20H, subregulation (2) is taken not to apply in relation to the consideration of the nomination.
- (3) A nomination must be made:
- (a) if the nomination is made by a standard business sponsor who is actively and lawfully operating a business outside Australia (or by an applicant for approval as a standard business sponsor who is actively and lawfully operating a business outside Australia) — in accordance with approved form 1196; or
 - (b) in any other case — in accordance with approved form 1196 or 1196 (Internet).
- (3A) This subregulation applies to a standard business sponsor if:
- (a) the sponsor's business activities include activities relating to either or both of:
 - (i) the recruitment of labour for supply to other unrelated businesses; and
 - (ii) the hiring of labour to other unrelated businesses; and
 - (b) the proposed nominated activity is an activity in relation to which the sponsor proposes supplying the services of a sponsored visa holder to another unrelated business.

Example

A person who proposes to nominate an activity, in relation to which a sponsored visa holder would come to Australia, for the purpose of hiring out the visa holder's services to another business, rather than to work directly in the person's business.

- (4) If the person is mentioned in paragraph (1) (b), (c), (d) or (e), the nomination must indicate that:
 - (a) the applicant will be paid at the level specified in the nomination; and
 - (b) that level will be at least the minimum salary level that applied at the time the nomination was made.
- (5) Subject to subregulation (6), the nomination must be accompanied by a fee, as follows:
 - (a) if the person became a party to a labour agreement on or after 1 July 2003, the fee is \$70;
 - (b) if the person's application for approval as a standard business sponsor was made before 1 July 2003, the fee is \$340;
 - (c) if, before 1 July 2003, the person:
 - (i) did not operate a business in Australia; and
 - (ii) gave the Minister undertakings in accordance with approved form 1067; and
 - (iii) was a person whom the Minister was satisfied (apart from not operating a business in Australia) would, on application, have been likely to have been approved as a standard business sponsor;the fee is \$340;
 - (d) if the person's application for approval as a standard business sponsor was made on or after 1 July 2003, the fee is \$70.
- (6) No fee is payable if:
 - (a) the person:
 - (i) became a party to a labour agreement before 1 July 2003; and
 - (ii) is a party to the agreement when the person nominates the activity; or

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- (b) the person is a pre-qualified business sponsor; or
 - (c) the person is a party to an IASS agreement.
- (7) The Minister may refund a fee paid under paragraph (5) (c) or (d) if:
- (a) each of the following applies:
 - (i) the tasks of the nominated activity no longer correspond to the tasks of an occupation specified in a Gazette Notice for subregulation (2);
 - (ii) the person withdraws the nomination for that reason before a decision is made under regulation 1.20H; or
 - (b) each of the following applies:
 - (i) the nomination is approved;
 - (ii) after the approval, but before a visa is granted in relation to the approval, the tasks of the nominated activity no longer correspond to the tasks of an occupation specified in a Gazette Notice for subregulation (2).

1.20GA Nomination of business activities — certified regional employment

- (1) A person mentioned in subregulation (2) may nominate to the Minister an activity in which an individual is proposed to be employed by the person in Australia, if:
- (a) the tasks of the nominated activity:
 - (i) correspond to the tasks of an occupation specified in a Gazette Notice for this paragraph; and
 - (ii) relate to a genuine full-time position that is necessary to the operation of the person's business; and
 - (iii) relate to a position that cannot reasonably be filled locally; and
 - (b) the nomination indicates that the individual will be paid at the level specified in the nomination; and

Regulation 1.20GA

- (c) that level will be:
 - (i) not less than the level of remuneration provided for under relevant Australian legislation and awards; and
 - (ii) at least the minimum salary level that applied at the time the nomination was made; and
 - (d) the individual's working conditions will be no less favourable than working conditions provided for under relevant Australian legislation and awards; and
 - (e) a body, specified for this paragraph by Gazette Notice, certifies that the nomination meets the requirements of paragraphs (a) to (d).
- (2) The person is:
- (a) a pre-qualified business sponsor; or
 - (b) a standard business sponsor approved under regulation 1.20D:
 - (i) as in force before 1 July 2003; or
 - (ii) as in force on or after 1 July 2003;
- other than a sponsor in relation to which:
- (c) the sponsor's business activities include activities relating to either or both of:
 - (i) the recruitment of labour for supply to other unrelated businesses; and
 - (ii) the hiring of labour to other unrelated businesses; and
 - (d) the proposed nominated activity is an activity in relation to which the sponsor proposes supplying the services of a sponsored visa holder to another unrelated business.
- Example*
- A person who proposes to nominate an activity, in relation to which a sponsored visa holder would come to Australia, for the purpose of hiring out the visa holder's services to another business, rather than to work directly in the person's business.
- (3) A nomination must be made in accordance with approved form 1196 or 1196 (Internet).

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- (4) If the person is a standard business sponsor to which subparagraph (2) (b) (i) applies, the nomination must be accompanied by a fee of \$340.
- (5) If the person is a standard business sponsor to which subparagraph (2) (b) (ii) applies, the nomination must be accompanied by a fee of \$70.
- (6) If the person is a pre-qualified business sponsor, no fee is payable.
- (7) The Minister may refund a fee paid under subregulation (4) or (5) if:
 - (a) each of the following applies:
 - (i) the tasks of the nominated activity no longer correspond to the tasks of an occupation specified in a Gazette Notice for subparagraph (1) (a) (i);
 - (ii) the person withdraws the nomination for that reason before a decision is made under regulation 1.20H; or
 - (b) each of the following applies:
 - (i) the nomination is approved;
 - (ii) after the approval, but before a visa is granted in relation to the approval, the tasks of the nominated activity no longer correspond to the tasks of an occupation specified in a Gazette Notice for subparagraph (1) (a) (i).

1.20H Approval of nominations of business activities

- (1) Subject to subregulations (1A) and (1B), the Minister must approve a nomination of an activity made under regulation 1.20G or 1.20GA (a ***nomination***) if the nomination is in accordance with:
 - (a) for a nomination under regulation 1.20G:
 - (i) subregulations 1.20G (1) and (3); and
 - (ii) if they are applicable — subregulations 1.20G (2), (4) and (5); or
 - (b) for a nomination under regulation 1.20GA — regulation 1.20GA.

Regulation 1.20H

- (1A) Subject to subregulation (1B), the Minister must not approve a nomination if:
- (a) the Minister is aware that adverse information is known to Immigration about the business background of:
 - (i) the sponsor; or
 - (ii) any officer or other senior or responsible person of any of the entities that constitute the sponsor; or
 - (iii) any individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the sponsor; or
 - (b) the Minister is aware that:
 - (i) the sponsor is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; or
 - (ii) an officer or other senior or responsible person of any of the entities that constitute the sponsor is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; or
 - (iii) an individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the sponsor is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; or

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- (c) the nomination was made under regulation 1.20G, and:
 - (i) the person making the nomination is mentioned in paragraph 1.20G (1) (b), (c), (d) or (e); and
 - (ii) the tasks of the nominated activity do not correspond to the tasks of an occupation specified in a Gazette Notice for subregulation 1.20G (2), as in effect when the Minister considers the nomination; and
 - (iii) subregulation 1.20G (2A) does not apply; or
 - (d) in a case in which the nomination was made under regulation 1.20GA:
 - (i) the tasks of the nominated activity do not correspond to the tasks of an occupation specified in a Gazette Notice for paragraph 1.20GA (1) (a), as in effect when the Minister considers the nomination; and
 - (ii) subregulation 1.20G (2A) does not apply.
- (1B) The Minister may approve a nomination, despite subregulation (1A), if he or she considers it reasonably appropriate to do so.
- Note* Circumstances in which it may be reasonably appropriate for the Minister to approve the nomination, despite the existence of adverse information about the business background of the sponsor or an investigation for breach of an undertaking or non-compliance with Australian law, could include a situation in which the adverse information or the potential outcome of the investigation would not, in the Minister's opinion, result in the sponsorship applicant being deemed unfit to be a sponsor.
- (1C) In subparagraphs (1A) (a) (ii) and (b) (ii):
officer, for a corporation, means an officer of the corporation within the meaning of the *Corporations Act 2001*.
- (2) The Minister must refuse to approve a nomination if it does not satisfy the requirements of subregulation (1).
 - (3) A decision to approve or refuse to approve a nomination must be made in writing.
 - (4) As soon as practicable after deciding the nomination:
 - (a) the Minister must provide the person who made the nomination with:
 - (i) a copy of the written approval or refusal of the nomination; and

- (ii) if the nomination is refused, a statement of the reasons why the nomination was refused; and
 - (b) if the nomination was made using approved form 1196 (Internet), the Minister may provide the person who made the nomination with those documents in electronic form.
- (5) An approval of a nomination ceases to have effect at the earliest of the following:
 - (a) at the end of 12 months after the day on which the nomination is approved;
 - (b) when a Subclass 457 visa is granted to the individual proposed to be employed in the activity to which the nomination relates;
 - (c) in the case of a business activity nominated by a person who is a party to a labour agreement or an IASS agreement — when that agreement ceases to have effect;
 - (d) in the case of a business activity nominated by:
 - (i) a pre-qualified business sponsor; or
 - (ii) a standard business sponsor;when the approval ceases to have effect;
 - (e) in the case of a business activity nominated by a person to whom paragraph 1.20G (1) (d) refers — upon the Minister becoming satisfied that the person is not able to comply with the undertakings given by the person in accordance with approved form 1067 before 1 July 2003;
 - (f) in the case of a business activity nominated by a person to whom paragraph 1.20G (1) (d) refers — upon the Minister ceasing to be satisfied that the person (apart from not operating a business in Australia) would, on application, be likely to be approved as a standard business sponsor.

1.20HA Cancelling or barring approval as a sponsor if undertakings breached

For subsection 140J (2) of the Act:

- (a) the circumstances in which the Minister may take one or more of the actions mentioned in paragraphs 140L (a), (c), (d), (e), (f) or (g) of the Act; and

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(b) the criteria to be taken into account by the Minister in determining what action to take under those paragraphs; are set out in the following table.

Note As well as barring a sponsor, this regulation deals with cancelling approval as a sponsor, other than as a business sponsor (as defined in section 137A of the Act). In accordance with subsections 140J (5) and 140K (5) of the Act, the cancellation of approval of a business sponsor is dealt with by Subdivision GA of Division 3 of Part 2 of the Act.

Item	The action set out in	May be taken in these circumstances	Taking these criteria into account
1	Paragraph 140L (a), (c), (d), (e) or (f) of the Act	An undertaking has been breached by the standard business sponsor (or former standard business sponsor against whom the undertaking remains enforceable)	Both of the following: (a) the severity of the breach of the undertaking; (b) the past conduct of the standard business sponsor
2	Paragraph 140L (g) of the Act	An undertaking has been breached by the standard business sponsor (or former standard business sponsor against whom the undertaking remains enforceable)	Each of the following: (a) whether the sponsor has been given a notice stating that the Minister is considering taking action under section 137B or paragraph 140L (a), (c), (d), (e) or (f) of the Act; (b) if the sponsor has not been given a notice of that kind — the severity of the breach of the undertaking; (c) if the sponsor has not been given a notice of that kind — the past conduct of the standard business sponsor

Regulation 1.20HB

1.20HB Cancelling or barring approval as a sponsor in circumstances other than those set out in regulation 1.20HA

For subsection 140K (1) of the Act:

- (a) the circumstances in which the Minister may take one or more of the actions mentioned in section 140L of the Act; and
- (b) the criteria to be taken into account by the Minister in determining what action to take under that section;

are set out in the following table.

Note As well as barring a sponsor, this regulation deals with cancelling approval as a sponsor, other than as a business sponsor (as defined in section 137A of the Act). In accordance with subsections 140J (5) and 140K (5) of the Act, the cancellation of approval of a business sponsor is dealt with by Subdivision GA of Division 3 of Part 2 of the Act.

Item	The action is set out in	May be taken in these circumstances	Taking these criteria into account
1	Paragraph 140L (a), (c), (d), (e) or (f) of the Act	The Minister is satisfied that the standard business sponsor: <ul style="list-style-type: none"> (a) has failed to continue to satisfy the requirements of the sponsorship; or (b) has given false information in relation to the sponsorship; or (c) has given false information in relation to the assessment of the applicant's compliance with the Act and these Regulations in relation to the applicant's approval; or 	Both of the following: <ul style="list-style-type: none"> (a) the significance of any false information provided; (b) the past conduct of the standard business sponsor

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Item	The action is set out in	May be taken in these circumstances	Taking these criteria into account
2	Paragraph 140L (g) of the Act	<p>(d) has given false information in relation to the assessment of the sponsored person's compliance with the conditions to which the person's Subclass 457 (Business (Long Stay)) visa is subject</p> <p>The Minister is satisfied that the standard business sponsor:</p> <p>(a) has failed to continue to satisfy the requirements of the sponsorship; or</p> <p>(b) has given false information in relation to the sponsorship; or</p> <p>(c) has given false information in relation to the assessment of the applicant's compliance with the Act and these Regulations in relation to the applicant's approval; or</p> <p>(d) has given false information in relation to the assessment of the sponsored person's compliance with the conditions to which the person's Subclass 457 (Business (Long Stay)) visa is subject</p>	<p>Each of the following:</p> <p>(a) whether the sponsor has been given a notice stating that the Minister is considering taking action under section 137B or paragraph 140L (a), (c), (d), (e) or (f) of the Act;</p> <p>(b) if the sponsor has not been given a notice of that kind — the significance of any false information provided;</p> <p>(c) if the sponsor has not been given a notice of that kind — the past conduct of the standard business sponsor</p>

1.20HC Waiving a bar

- (1) For subsection 140O (1) of the Act, the following kinds of visas are prescribed:
 - (a) a Subclass 457 (Business (Long Stay)) visa granted on the basis that the requirements of subclause 457.223 (4) of Schedule 2 were met;
 - (b) a Subclass 457 (Business (Long Stay)) visa granted on the basis that the requirements of subclause 457.223 (5) of Schedule 2 were met;
 - (c) a Subclass 457 (Business (Long Stay)) visa granted to a person who is a member of the family unit of a person who has been granted a Subclass 457 (Business (Long Stay)) visa on the basis that the requirements of subclause 457.223 (4) or (5) of Schedule 2 were met.
- (2) For subsection 140O (2) of the Act, a circumstance in which the Minister may waive a bar placed on a standard business sponsor, or a former business sponsor, under section 140J or 140K of the Act is that the person has made a request to the Minister to waive the bar.
- (3) For subsection 140O (3) of the Act, the criteria to be taken into account by the Minister in determining whether to waive the bar are:
 - (a) whether Australia's interests would be significantly affected if the bar were not waived; and
 - (b) whether a substantial trade opportunity would be lost if the bar were not waived; and
 - (c) whether there would be a significant detriment to the Australian community if the bar were not waived; and
 - (d) whether the person's inability to be a standard business sponsor would significantly damage Australia's relations with the government of another country; and
 - (e) if the Minister has previously refused to waive the bar — whether the Minister is satisfied that the circumstances in which the Minister took the criteria in paragraphs (a), (b), (c) and (d) into account have changed substantially.

Regulation 1.20HD

1.20HD Process for waiving a bar

For subsection 140P (1) of the Act, a request to the Minister to waive a bar placed on a person under section 140J or 140K of the Act must be made in writing.

1.20I Exercise of Minister's powers under this Division

In addition to being exercisable by the Minister personally or by a delegate of the Minister, the powers and functions of the Minister under this Division are exercisable by a person who:

- (a) is the holder of an office under the Act; and
- (b) is authorised in writing by the Minister to exercise those powers;

and, when any of those powers or functions is exercised by such a person, that power or function is taken, for the purposes of these Regulations, to have been exercised by the Minister.

1.20IA Disclosure of personal information

For section 140V of the Act:

- (a) personal information that may be disclosed to a standard business sponsor or a former standard business sponsor about the holder or former holder of a Subclass 457 (Business (Long Stay)) visa is:
 - (i) details of any breaches of visa conditions by the sponsored person; and
 - (ii) information about whether the sponsored person holds a Subclass 457 (Business (Long Stay)) visa that is in effect, and remains in Australia as an unlawful non-citizen; and
 - (iii) information about the sponsored person's salary or other workplace conditions; and
 - (iv) details of any hospital or medical expenses for the sponsored person that the sponsor or former sponsor is required to pay; and
 - (v) details of any costs incurred by the Commonwealth in relation to the sponsored person; and

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- (b) the circumstances in which the Minister may disclose the personal information are that the disclosure is necessary:
 - (i) to allow the sponsor to respond to a claim that the sponsor has engaged in conduct that may lead to action under section 140J or 140K of the Act against the sponsor; or
 - (ii) to allow the sponsor to meet a liability relating to the sponsorship of the holder or former holder; or
 - (iii) in connection with a proceeding for review of a decision mentioned in paragraph 4.02 (4) (i) of these Regulations; and
- (c) the circumstances in which the standard business sponsor or former standard business sponsor may use or disclose the information are the circumstances set out in paragraph (b).

Division 1.4B Limitation on certain sponsorships and nominations

1.20J Limitation on approval of sponsorships — spouse, partner, prospective marriage and interdependency visas

- (1AA) This regulation applies in relation to an application for:
 - (a) a Spouse (Provisional) (Class UF) visa; or
 - (b) a Partner (Provisional) (Class UF) visa; or
 - (c) a Prospective Marriage (Temporary) (Class TO) visa; or
 - (d) an Interdependency (Provisional) (Class UG) visa; or
 - (e) an Extended Eligibility (Temporary) (Class TK) visa; or
 - (f) a Partner (Temporary) (Class UK) visa.
- (1) Subject to subregulations (2) and (3), if a person applies for a visa mentioned in subregulation (1AA) as the spouse, de facto partner or prospective spouse of the sponsor, the Minister must not approve the sponsorship of the applicant unless the Minister is satisfied that:
 - (a) not more than 1 other person has been granted a relevant permission as:

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- (i) the spouse, de facto partner or prospective spouse of the sponsor on the basis of a sponsorship or nomination; or
 - (ii) a person who ceased a relationship of a kind mentioned in subparagraph (i) with the sponsor after the person, or another person mentioned in the prescribed criteria for the visa, had suffered family violence committed by the sponsor; and
- (b) if another person has been granted a relevant permission in the circumstances referred to in paragraph (a) — not less than 5 years has passed since the date of making the application for that relevant permission; and
 - (c) if the sponsor was granted a relevant permission as the spouse, de facto partner or prospective spouse of another person on the basis of a sponsorship or nomination — not less than 5 years has passed since the date of making the application for that relevant permission.
- (1A) In subregulation (1):
- relevant permission* means:
- (a) in relation to an application for a visa referred to in subregulation (1AA) made during the period from 1 November 1996 to 30 June 1997 (inclusive) — a visa; and
 - (b) in relation to an application for a visa referred to in subregulation (1AA) made on or after 1 July 1997 — permission (other than a visa or entry permit) granted under the Act to remain indefinitely in Australia, a visa or an entry permit.
- (2) Despite subregulation (1), the Minister may approve the sponsorship of an applicant for a visa if the Minister is satisfied that there are compelling circumstances affecting the sponsor.
 - (3) Subject to subregulation (4), this regulation applies in relation to an application for a visa made on or after 1 November 1996.
 - (4) This regulation does not apply in relation to an application by a person who:
 - (a) was the holder of a Subclass 300 visa that was granted on the basis of an application for a Prospective Marriage

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- (Temporary) (Class TO) visa that was made before 1 November 1996; and
- (b) has applied for an Extended Eligibility (Temporary) (Class TK) visa; and
 - (c) is seeking to remain permanently in Australia on the basis of the person's marriage to the person who was specified as the intended spouse in the application that resulted in the grant of that Prospective Marriage (Temporary) (Class TO) visa.

1.20K Limitation on sponsorships — remaining relative visas

- (1) The Minister must not grant a Subclass 115 visa or Subclass 835 visa to an applicant (who is making the *current application*) if:
 - (a) a Subclass 104 visa, a Subclass 115 visa, a Subclass 806 visa or a Subclass 835 visa has previously been granted to the person (*person S*) who is the sponsor of the applicant at the time of decision in relation to the current application; or
 - (b) a Subclass 104 visa, a Subclass 115 visa, a Subclass 806 visa or a Subclass 835 visa has previously been granted to another person (who made the *previous application*):
 - (i) who was sponsored or nominated by person S at the time of the decision in relation to the previous application; and
 - (ii) on the basis of sponsorship or nomination by person S.
- (3) A reference in this regulation to a Subclass 104 visa or a Subclass 806 visa is a reference to a Subclass 104 (Preferential Family) visa or a Subclass 806 (Family) visa, as the case requires, that could have been granted under these Regulations, as in force immediately before 1 November 1999.

Regulation 1.20KA

1.20KA Limitation on approval of sponsorship — partner (provisional or temporary) or prospective marriage (temporary) visas

- (1) This regulation applies if:
 - (a) a person is granted a specified visa on or after 1 July 2009; and
 - (b) the person seeks approval to sponsor the relevant applicant on or after 1 July 2009; and
 - (c) the person was the spouse or de facto partner of the relevant applicant on or before the day the specified visa was granted to the person.
- (2) The Minister must not approve sponsorship by the person of the relevant applicant within 5 years after the day when the person was granted the specified visa.
- (3) Despite subregulation (2), the Minister may approve sponsorship by the person of the relevant applicant:
 - (a) if the relevant applicant had compelling reasons, other than reasons related to his or her financial circumstances, for not applying for a specified visa at the same time as the person applied for his or her specified visa; or
 - (b) if:
 - (i) the relevant applicant applied for a specified visa at the same time as the sponsor; and
 - (ii) the relevant applicant withdrew the application for the specified visa before it was granted; and
 - (iii) the relevant applicant had compelling reasons, other than reasons related to his or her financial circumstances, for withdrawing the application for the specified visa.
- (4) In this regulation:

relevant applicant means the applicant for:

 - (a) a Partner (Provisional) (Class UF) visa; or
 - (b) a Partner (Temporary) (Class UK) visa; or
 - (c) a Prospective Marriage (Temporary) (Class TO) visa.

specified visa means:

- (a) a Subclass 143 (Contributory Parent) visa; or
- (b) a Subclass 864 (Contributory Aged Parent) visa.

1.20L Limitation on approval of sponsorship — Subclass 679 (Sponsored Family Visitor) visas

- (1) The Minister must not approve the sponsorship by a sponsor of an applicant for a Sponsored (Visitor) (Class UL) visa who appears to satisfy the criteria for the grant of a Subclass 679 (Sponsored Family Visitor) visa if:
 - (a) the sponsor has previously sponsored another applicant (the *previous applicant*) for:
 - (i) a Sponsored (Visitor) (Class UL) visa; or
 - (ii) a Short Stay Sponsored (Visitor) (Class UL) visa; and
 - (b) the previous applicant was granted a visa of that kind; and
 - (c) either:
 - (i) subject to subregulations (2) and (3), the visa is still in effect; or
 - (ii) subject to subregulation (4), if the visa has ceased to be in effect:
 - (A) the previous applicant did not comply with a condition of the visa; and
 - (B) a period of 5 years has not passed since the grant of the visa.
- (2) Despite subparagraph (1) (c) (i), the Minister may approve the sponsorship by the sponsor of the applicant if:
 - (a) the previous applicant is the holder of a Subclass 459 (Sponsored Business Visitor (Short Stay)) visa; and
 - (b) the Minister is satisfied that:
 - (i) the applicant is proposing to travel to Australia at the same time, and for the same business purposes, as the previous applicant; or
 - (ii) the applicant:

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- (A) is the spouse, or de facto partner or a dependent child, of the previous applicant; and
 - (B) is proposing to travel to Australia at the same time as the previous applicant.
- (3) Despite subparagraph (1) (c) (i), the Minister may approve the sponsorship by the sponsor of the applicant if:
 - (a) the previous applicant is the holder of:
 - (i) a Subclass 679 (Sponsored Family Visitor (Short Stay)) visa; or
 - (ii) a Subclass 679 (Sponsored Family Visitor) visa; and
 - (b) the Minister is satisfied that the applicant:
 - (i) is a member of the family unit of the previous applicant; and
 - (ii) is proposing to travel to Australia for the same purpose as the previous applicant.
- (4) Despite subparagraph (1) (c) (ii), the Minister may approve the sponsorship by the sponsor of the applicant if:
 - (a) the previous applicant was the holder of:
 - (i) a Subclass 679 (Sponsored Family Visitor (Short Stay)) visa; or
 - (ii) a Subclass 679 (Sponsored Family Visitor) visa; and
 - (b) the Minister has, at any time, determined in writing that he or she is satisfied that:
 - (i) the previous applicant did not comply with condition 8531; and
 - (ii) the previous applicant exceeded the period of stay permitted by the visa due to circumstances:
 - (A) beyond the previous applicant's control; and
 - (B) that occurred after the previous applicant entered Australia as the holder of a visa mentioned in paragraph (a).

Note Condition 8531 provides that the holder of a visa is not permitted to remain in Australia after the end of the period of stay permitted by that visa.

1.20LAA Limitation on sponsorships — parent, aged dependent relative, contributory parent, aged parent and contributory aged parent visas

- (1) This regulation applies to the following visas:
 - (a) a Subclass 103 (Parent) visa;
 - (b) a Subclass 114 (Aged Dependent Relative) visa;
 - (c) a Subclass 143 (Contributory Parent) visa;
 - (d) a Subclass 173 (Contributory Parent (Temporary)) visa;
 - (e) a Subclass 804 (Aged Parent) visa;
 - (f) a Subclass 838 (Aged Dependent Relative) visa;
 - (g) a Subclass 864 (Contributory Aged Parent) visa;
 - (h) a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

- (2) The Minister must not approve a sponsorship for a subclass of visa to which this regulation applies if:
 - (a) the Minister is satisfied that the sponsor of the applicant for the visa is:
 - (i) a holder or former holder of a Subclass 802 (Child) visa whose application for that visa was supported by a letter of support from a State or Territory government welfare authority; or
 - (ii) a cohabitating spouse or de facto partner of that holder or former holder; or
 - (iii) a guardian of that holder or former holder; or
 - (iv) a guardian of a person who is a cohabitating spouse or de facto partner of that holder or former holder; or
 - (v) a community organisation; and

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- (b) the Minister is satisfied that the applicant for the visa is or was a parent of a holder or former holder of a Subclass 802 (Child) visa whose application for that visa was supported by a letter of support from a State or Territory government welfare authority.
- (3) Despite subregulation (2), the Minister may approve a sponsorship for a subclass of visa mentioned in subregulation (1) if the Minister is satisfied that there are compelling circumstances affecting the sponsor or the applicant to justify the approval of the sponsorship of the applicant for the visa.
- (4) In this regulation:
- letter of support** means a letter of support provided by a State or Territory government welfare authority that:
- (a) supports a child's application for permanent residency in Australia; and
 - (b) sets out:
 - (i) the circumstances leading to the involvement of the State or Territory government welfare authority in the welfare of the child; and
 - (ii) the State or Territory government welfare authority's reasons for supporting the child's application for permanent residency in Australia; and
 - (c) describes the nature of the State or Territory government welfare authority's continued involvement in the welfare of the child; and
 - (d) shows the letterhead of the State or Territory government welfare authority; and
 - (e) is signed by a manager or director employed by a State or Territory government welfare authority.

Division 1.4C Sponsorship: professional development

Subdivision 1.4C.1 Introductory

1.20LA Application of Division 3A of Part 2 of the Act

For section 140A of the Act, Division 3A of Part 2 of the Act applies to a Subclass 470 (Professional Development) visa.

1.20M Definitions

In this Division:

agreement rules, in relation to a professional development agreement, means the rules set out in subregulation 1.20NA (4).

Australian organisation means an organisation that is lawfully established in Australia.

employed, in relation to an overseas employer, includes being nominated in the circumstances described in sub-subparagraph (a) (ii) (B) or (b) (ii) (B) of the definition of **overseas employer**.

government agency means an agency of the Commonwealth or of a State or Territory.

organisation means a body corporate or an unincorporated body (other than an individual or a sole trader).

overseas employer, in relation to a person who applies, or proposes to apply, for a Sponsored Training (Temporary) (Class UV) visa, means:

- (a) an organisation:
 - (i) the activities of which are conducted under the auspices of the government of:
 - (A) a foreign country; or
 - (B) a province, territory or state of a foreign country; and
 - (ii) that:
 - (A) employs the person; or

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- (B) has nominated the person to undertake a genuine training program; or
- (b) a multilateral agency that:
 - (i) is actively operating, and has been actively operating for a continuous period of at least 1 year immediately before the date of application; and
 - (ii) either:
 - (A) employs the person; or
 - (B) has nominated the person to undertake a genuine training program; or
- (c) a registered business that:
 - (i) is conducted outside Australia by an organisation; and
 - (ii) is actively and lawfully operating outside Australia, and has been actively operating outside Australia for a continuous period of at least 1 year immediately before the date of application; and
 - (iii) employs the person.

overseas participant, in relation to an approved professional development sponsor, means:

- (a) a person who holds a Subclass 470 (Professional Development) visa; or
- (b) a person:
 - (i) who is in Australia; and
 - (ii) who does not hold a substantive visa; and
 - (iii) whose last substantive visa was a Subclass 470 (Professional Development) visa.

participant costs for an overseas participant in a professional development program conducted by an approved professional development sponsor means the costs of:

- (a) the overseas participant's travel and entry to Australia; and
- (b) the overseas participant's tuition for the professional development program; and
- (c) the overseas participant's accommodation in Australia; and
- (d) the overseas participant's living expenses in Australia; and

(e) the overseas participant's health insurance in Australia;
and

(f) the overseas participant's return travel from Australia.

professional development agreement means an agreement that complies with the agreement rules.

professional development program means a program that complies with the requirements in paragraph 1.20NA (2) (a).

Subdivision 1.4C.2 Becoming an approved professional development sponsor

1.20N Process for making application to become an approved professional development sponsor

- (1) For subsection 140F (1) of the Act, an application to the Minister for approval as an approved professional development sponsor may be made by:
 - (a) an Australian organisation; or
 - (b) a government agency;that has entered into a professional development agreement that is in force at the time of the making of the application.
- (2) An application must be made in accordance with approved form 1226.
- (3) If the application is not made by a Commonwealth agency, the application must be accompanied by a fee of \$1 370.
- (4) An application must be made by:
 - (a) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this paragraph; or
 - (b) having the application delivered by a courier service to the address specified in a Gazette Notice for this paragraph; or
 - (c) having the application sent by facsimile to the address specified in a Gazette Notice for this paragraph.

Note In prescribed circumstances, a sponsor may be barred from making future applications for approval as a professional development sponsor (see paragraphs 140L (e) and (f) of the Act).

Regulation 1.20NA

1.20NA Approving an application to become an approved professional development sponsor

- (1) For section 140E of the Act, the criteria for approval as an approved professional development sponsor are that the Minister:
- (a) is satisfied about each of the matters mentioned in subregulation (2); and
 - (b) is satisfied that if an authorised officer requires security for compliance with:
 - (i) the provisions of the Act and these Regulations in relation to the applicant's undertakings as an approved professional development sponsor; or
 - (ii) a condition imposed under the Act or these Regulations in relation to the applicant's undertakings as an approved professional development sponsor;the applicant has given the security.

Note Under section 140E of the Act, the Minister must approve an applicant as an approved professional development sponsor if the prescribed criteria are satisfied.

- (2) For paragraph (1) (a), the matters are:
- (a) the applicant is offering to conduct a program that complies with the following requirements:
 - (i) the program is relevant to, and consistent with, the development of the skills of managers, professionals, or both;
 - (ii) the program provides skills and experience relevant to, and consistent with, the business and business background of an overseas participant's overseas employer;
 - (iii) the duration of the program does not exceed:
 - (A) 18 months; or
 - (B) if the Secretary is satisfied that exceptional circumstances exist — a longer period approved by the Secretary;

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- (iv) the primary form of the program is the provision of face to face teaching in a classroom or similar environment;
- (v) the primary content of the program is not a practical component;
- (vi) any practical component of the program:
 - (A) does not exceed 7 hours in any day and 35 hours in any week; and
 - (B) does not adversely affect the Australian labour market; and
 - (C) requires or involves the payment of remuneration to an overseas participant only by the overseas participant's overseas employer; and
- (b) the applicant has demonstrated overall the capacity to provide professional development programs involving overseas participants; and
- (c) the applicant has entered into a professional development agreement that is in force at the time of the Minister's consideration of the application; and
- (ca) each of the parties to the agreement has the capacity to meet their financial commitments; and
- (cb) all of the participant costs of an overseas participant in a professional development program that an applicant is offering to conduct will be met; and
- (cc) an overseas participant will not be required to pay the participant's costs of tuition for the professional development program; and
- (d) the applicant and each of the other parties with which the applicant has a current professional development agreement:
 - (i) is not a proscribed person or entity within the meaning of section 14 of the *Charter of the United Nations Act 1945*; and
 - (ii) is not a terrorist organisation, or a member of a terrorist organisation, within the meaning of Division 102 of the *Criminal Code*; and

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- (iii) does not intentionally provide support to:
 - (A) a proscribed person or entity within the meaning of section 14 of the *Charter of the United Nations Act 1945*; or
 - (B) an organisation which the person knows to be a terrorist organisation, or a member of a terrorist organisation, within the meaning of Division 102 of the *Criminal Code*; and
 - (e) if the applicant has previously been required to comply with the immigration laws of Australia — the applicant has a satisfactory record of compliance; and
 - (f) if a person associated with the applicant has previously been required to comply with the immigration laws of Australia — the person has a satisfactory record of compliance; and
 - (g) if an overseas employer with which the applicant has a current professional development agreement has previously been required to comply with the immigration laws of Australia — the employer has a satisfactory record of compliance; and
 - (h) each person who is, or was, an overseas participant in a professional development program conducted by or for the applicant has:
 - (i) a satisfactory record of compliance with the person's visa conditions; and
 - (ii) a satisfactory record of compliance with the immigration laws of Australia in relation to any previous application by the person for a visa; and
 - (j) the applicant has given the undertakings mentioned in regulation 1.20P; and
- Note* The undertakings do not have effect in relation to an overseas participant until a visa is granted to the overseas participant (see subsection 140H (3) of the Act).
- (k) the applicant is capable of complying with the undertakings mentioned in regulation 1.20P; and
 - (l) the applicant does not owe costs for medical or hospital expenses (not covered by health insurance) incurred in relation to an overseas participant; and

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(m) the applicant does not have any outstanding debts to the Commonwealth incurred in relation to an overseas participant.

- (3) As soon as practicable after deciding an application under subregulation 1.20N (1), the Minister must give the applicant:
- (a) a copy of the written approval or refusal of the application; and
 - (b) if the application is refused, a statement of the reasons for the refusal.

Note Under section 140E of the Act, the Minister must approve a person as an approved professional development sponsor if the criteria set out in regulation 1.20NA are satisfied.

- (4) The **agreement rules**, in relation to a professional development agreement, are the following rules:
- (a) the parties to the agreement must be:
 - (i) the applicant; and
 - (ii) the overseas employer of a person who would be an overseas participant;
 - (b) the applicant must be:
 - (i) an Australian organisation that has been actively operating in Australia for a continuous period of at least 1 year before the making of the agreement; or
 - (ii) an Australian organisation that, while not meeting the requirements of subparagraph (i), has been approved by the Minister for the purposes of this subparagraph; or
 - (iii) a government agency;
 - (c) there may be other parties to the agreement but, if there are, those other parties must be either Australian organisations or government agencies;
 - (d) the agreement must specify who is responsible for the participant costs of persons who would be overseas participants;
 - (e) the agreement must include:
 - (i) a description of the professional development program and what is intended to be provided by the sponsor; and

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- (ii) a description of the roles of each of the parties under the agreement; and
 - (iii) the details of the duration of the agreement; and
 - (iv) arrangements for mediation of disputes and other conflict resolution arrangements; and
 - (v) any arrangements made by the sponsor to subcontract any part of the provision of the professional development program; and
 - (vi) a description of the arrangements for insurance relating to the sponsor; and
 - (vii) a description of the arrangements for recovery of costs if the sponsor, or another provider of the professional development program acting for the sponsor, ceases operations for any reason; and
 - (viii) a description of the characteristics of the persons whom the overseas employer proposes to select as overseas participants, and how overseas participants will be selected;
- (f) if proposed overseas participants will be expected to pay for some of their participation costs (other than tuition costs), the agreement must contain:
- (i) a statement setting out that the proposed overseas participants will be expected to meet the costs set out; and
 - (ii) a declaration from the overseas employer that the employer will not select an employee to be an overseas participant without being first satisfied that the employee can meet those costs;
- (g) the agreement is signed and dated by representatives of each party who are authorised to sign the agreement.

1.200 Terms of approval as approved professional development sponsor

- (1) For subsection 140G (2) of the Act, an approval as an approved professional development sponsor has effect only in relation to:
- (a) the professional development program specified in the application for approval; and

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- (b) the professional development agreement or agreements specified in the application for approval; and
- (c) the overseas employer or overseas employers specified in the application for approval.

Note If an approved professional development sponsor wishes:

- (a) to prepare a new professional development program; or
- (b) to make a new agreement; or
- (c) to offer an existing professional development program to a new overseas employer;

the sponsor must apply under regulation 1.20N for a new approval as an approved professional development sponsor in relation to the new arrangement.

- (1A) For subsection 140G (2) of the Act, an approval as an approved professional development sponsor has as terms the matters set out in subregulations (1B), (1C) and (1D).
- (1B) An authorised officer may require the sponsor to give additional security for compliance with:
 - (a) the provisions of the Act and these Regulations in relation to the applicant's undertakings as an approved professional development sponsor; or
 - (b) a condition imposed under the Act or these Regulations in relation to the applicant's undertakings as an approved professional development sponsor.
- (1C) The additional security may be required if the security given under paragraph 1.20NA (1) (b) by the sponsor has been called upon so that the amount of the security remaining is zero or an amount that is less than the amount of the security given.
- (1D) If an authorised officer has required the sponsor to give additional security under subregulation (1B), the sponsor must give the security within:
 - (a) 28 days; or
 - (b) such longer period as allowed by the Minister; after the time the requirement has been made.

Regulation 1.20P

- (2) For subsection 140G (2) of the Act, an approval as an approved professional development sponsor ceases to have effect on the earliest of:
- (a) the end of 3 years commencing on the day on which the approval is given; and
 - (b) the ending of:
 - (i) the professional development agreement specified in the application for approval; or
 - (ii) if more than 1 agreement is specified in the application for approval — the specified agreement that ends first; and
 - (c) cancellation of the approval as mentioned in paragraph 140L (a) or (b) of the Act.

1.20P Sponsorship undertakings

- (1) For subsection 140H (1) of the Act, the undertakings that an applicant for approval as an approved professional development sponsor must make are:
- (a) to ensure that the participant costs of an overseas participant are met while the participant is the holder of a Subclass 470 (Professional Development) visa; and
 - (b) to ensure that an overseas participant complies with the conditions to which the overseas participant's visa is subject; and
 - (c) to ensure that an overseas participant complies with the immigration laws of Australia; and
 - (d) to comply with its responsibilities under the immigration laws of Australia; and
 - (e) to ensure that an overseas participant's standard of living (including the overseas participant's accommodation) while the overseas participant is the holder of a Subclass 470 (Professional Development) visa is consistent with a reasonable standard of living in Australia; and
 - (f) to give the Secretary accurate information, as soon as practicable, about:
 - (i) any material change in the approved professional development sponsor's circumstances; or

Regulation 1.20P

- (ii) any matter that may affect the approved professional development sponsor's ability to carry out the undertakings mentioned in this regulation; or
 - (iii) any material change in an overseas participant's circumstances; or
 - (iv) any matter that may affect an overseas participant's ability to comply with the conditions to which the overseas participant's visa is subject; and
- (g) not to make a material change to the professional development program for an overseas participant unless the Secretary has approved the change in writing; and
- (h) to give officers reasonable access, at reasonable times, to premises at which the approved professional development sponsor provides, or will provide, a professional development program, for the purpose of assessing:
- (i) the approved professional development sponsor's compliance with the Act and these Regulations in relation to the approved professional development sponsor's sponsorship, the program and any overseas participant; and
 - (ii) an overseas participant's compliance with the conditions to which the overseas participant's visa is subject; and
- (i) to co-operate with the Department's monitoring of the approved professional development sponsor and of an overseas participant sponsored by the sponsor; and
- (j) not to employ a non-citizen who does not hold a visa permitting the non-citizen to work (whether for reward or otherwise); and
- (k) not to employ a non-citizen in breach of a visa condition restricting the work that the non-citizen may perform in Australia; and
- (l) either:
- (i) for an application made before 1 November 2005 — to pay all medical or hospital expenses for the overseas participant (other than expenses that are met in accordance with health insurance arrangements); or

Regulation 1.20PA

- (ii) for an application made on or after 1 November 2005 — to pay all medical or hospital expenses for the overseas participant arising from treatment administered in a public hospital (other than expenses that are met by health insurance or reciprocal health care arrangements); and
 - (m) to pay to the Commonwealth an amount equal to all costs incurred by the Commonwealth in relation to an overseas participant (including costs mentioned in subregulation (2)); and
 - (n) to pay to the Commonwealth any security required under subregulation 1.20O (1B) within the time provided for in subregulation 1.20O(1D).
- (2) For paragraph (1) (m), the costs include the cost of:
- (a) locating the overseas participant; and
 - (b) detaining the overseas participant; and
 - (c) removing the overseas participant from Australia; and
 - (d) processing an application for a protection visa made by the overseas participant.

Note An undertaking is not enforceable in relation to costs of locating and detaining an overseas participant that exceed the limit prescribed by regulation 1.20PA.

1.20PA Limit in relation to costs of location and detention

For subsection 140I (4) of the Act, the limit (over which an undertaking in relation to the costs of the Commonwealth in locating and detaining an overseas participant is not enforceable) is \$10 000.

1.20PB Consequences if approved professional development sponsor or visa holder changes status

For subsection 140Q (1) of the Act, an undertaking arising out of the sponsorship of the holder of a Subclass 470 (Professional Development) visa remains enforceable against the sponsor concerned until the time set out in the following table.

Regulation 1.20Q

Item	The undertaking set out in	Remains enforceable until
1	Paragraph 1.20P (1) (l)	The time when the expenses are paid
2	Paragraph 1.20P (1) (m)	The time when the amount is paid
2A	Paragraph 1.20P (1) (n)	The time when the security is given
3	Paragraph 1.20P (1) (c) or (d), subparagraph 1.20P (1) (f) (iii), paragraph 1.20P (1) (h), (i), (j) or (k)	If the sponsor ceases to be an approved sponsor of the sponsored person, and the sponsored person ceases to hold a Subclass 470 (Professional Development) visa for which he or she was sponsored — the time when the person ceases to be an overseas participant
4	Paragraph 1.20P (1) (a), (b) or (e), subparagraph 1.20P (1) (f) (i), (ii) or (iv), paragraph 1.20P (1) (g)	If the sponsor ceases to be an approved sponsor of the sponsored person, and the sponsored person ceases to hold a Subclass 470 (Professional Development) visa for which he or she was sponsored — the time when the sponsored person ceases to hold the Subclass 470 (Professional Development) visa

Note Undertakings made by an approved professional development sponsor in relation to an overseas participant do not have effect until a visa is granted to the overseas participant (see subsection 140H (3) of the Act).

Subdivision 1.4C.3 Cancelling or barring an approved professional development sponsor

1.20Q Cancelling or barring approval as a sponsor

- (1) This regulation applies if:
- (a) the Minister is satisfied that an approved professional development sponsor has breached an undertaking mentioned in regulation 1.20P; or
 - (b) the Minister is no longer satisfied as to a matter mentioned in subregulation 1.20NA (2); or

Regulation 1.20R

- (c) the Minister is no longer satisfied that the approved professional development sponsor is able to comply with an undertaking mentioned in regulation 1.20P.
- (2) In deciding which of the actions mentioned in section 140L of the Act to take in the circumstances mentioned in subregulation (1), the criteria that the Minister must take into account are:
 - (a) the severity of the breach or other conduct; and
 - (b) the past conduct of the sponsor; and
 - (c) the impact (if any) of the taking of the action may have on the Australian community; and
 - (d) whether barring the approved professional development sponsor in a way mentioned in section 140L of the Act would be an inadequate means of dealing with the matter, having regard to considerations including:
 - (i) the seriousness of the inability or failure to comply; and
 - (ii) the past conduct of the approved professional development sponsor.
- (3) If the Minister decides to take any action mentioned in section 140L of the Act, the Minister must give the sponsor written notice of the decision.
- (4) The notice must specify:
 - (a) which of the circumstances mentioned in subregulation (1) apply; and
 - (b) the specific action to be taken; and
 - (c) if the action is to bar the approved professional development sponsor — the duration of the bar.

1.20R Waiving a bar

- (1) For subsection 140O (1) of the Act, a Subclass 470 (Professional Development) visa is prescribed.

Regulation 1.20S

- (2) For subsection 140O (2) of the Act, a circumstance in which the Minister may waive a bar placed on an approved professional development sponsor, or a former approved professional development sponsor, under section 140J or 140K of the Act is that the sponsor, or former sponsor, has requested in writing that the bar be waived.
- (3) For subsection 140O (3) of the Act, the criteria to be taken into account by the Minister in determining whether to waive a bar are that:
 - (a) there would be significant social, economic or political benefits to Australia if the bar were waived; and
 - (b) there has been a substantial change in the sponsor's, or former sponsor's, circumstances significantly minimising the likelihood of further breaches or unacceptable conduct in other circumstances; and
 - (c) the benefits to Australia and the change in the sponsor's, or former sponsor's, circumstances outweigh the severity of the breach of undertakings or other conduct that resulted in the bar; and
 - (d) if the Minister has previously refused to waive the bar — the Minister is satisfied that the circumstances relevant to the criteria mentioned in paragraphs (a), (b) and (c) have changed substantially since the refusal to waive the bar.

1.20S Giving notice about a bar, waiving a bar or cancellation

If the Minister takes action mentioned in section 140L or 140O of the Act in relation to an approved professional development sponsor, or a former approved professional development sponsor, the Minister must give the sponsor or former sponsor notice of the action in accordance with section 494B of the Act.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

Regulation 1.20T

Subdivision 1.4C.4 General

1.20T Disclosure of personal information

For section 140V of the Act:

- (a) personal information that may be disclosed to an approved professional development sponsor or a former approved professional development sponsor about the holder or former holder of a Subclass 470 (Professional Development) visa (the *person*) is:
 - (i) details of any breaches of visa conditions by the person; and
 - (ii) if the person no longer holds a Subclass 470 (Professional Development) visa that is in effect and remains in Australia as an unlawful non-citizen — that information; and
 - (iii) details of any hospital or medical expenses for the person that the sponsor or former sponsor is required to pay; and
 - (iv) details of any costs incurred by the Commonwealth in relation to the person; and
 - (v) details of the cost of return travel from Australia by the person, while the person was the holder of a Subclass 470 (Professional Development) visa; and
 - (vi) details of any non-compliance with the immigration laws of Australia by the person; and
 - (vii) if the person's standard of living, while the person was the holder of a Subclass 470 visa was not consistent with a reasonable standard of living in Australia — that information; and
 - (viii) details of any material change in the person's circumstances; and
 - (ix) details of any matter that affected the person's ability to comply with the conditions to which the person's visa was subject; and
- (b) the circumstances in which the Minister may disclose the personal information are that the disclosure is necessary:
 - (i) to allow the sponsor or former sponsor to respond to a claim about conduct that may lead to action under

- section 140J or 140K of the Act against the sponsor or former sponsor; or
- (ii) to allow the sponsor or former sponsor to meet a liability relating to the sponsorship of the holder or former holder of a Subclass 470 (Professional Development) visa; or
 - (iii) in connection with a proceeding for review of a decision mentioned in paragraph 4.02 (4) (h) of these Regulations; and
- (c) the circumstances in which the sponsor or former sponsor may use or disclose the information are the circumstances set out in paragraph (b).

Division 1.4D Special student sponsorship

Subdivision 1.4D.1 Introductory

1.20UA Definitions for Division 1.4D

In this Division:

organisation, for an applicant for approval as an approved special student sponsor, means a body that is lawfully established and actively operating in Australia (including an unincorporated body of persons); and

relevant student visa means either of the following visas:

- (a) a Subclass 571 (Schools Sector) visa, Subclass 572 (Vocational Education and Training Sector) visa, Subclass 573 (Higher Education Sector) visa or Subclass 574 (Postgraduate Research Sector) visa that is granted, or would be granted, to:
 - (i) a person designated under regulation 2.07AO; or
 - (ii) a member of the family unit of a person designated under regulation 2.07AO;

on the basis of the sponsorship of the person designated under regulation 2.07AO by an approved special student sponsor;

Regulation 1.20UB

- (b) a Subclass 571 (Schools Sector) visa, Subclass 572 (Vocational Education and Training Sector) visa, Subclass 573 (Higher Education Sector) visa or Subclass 574 (Postgraduate Research Sector) visa that is granted, or would be granted, to:
- (i) a person designated under regulation 2.07AO who already holds a visa of that Subclass; or
 - (ii) a member of the family unit of a person designated under regulation 2.07AO who already holds a visa of that Subclass;
- for the purpose only of permitting the change of a condition relating to the working rights of the person or member of the family unit, or of permitting the change of an education provider.

1.20UB Application of Division 3A of Part 2 of the Act

For section 140A of the Act, Division 3A of Part 2 of the Act applies to the following visas:

- (a) a Subclass 571 (Schools Sector) visa the applicant for which is:
 - (i) a person designated under regulation 2.07AO; or
 - (ii) a member of the family unit of a person designated under regulation 2.07AO;
- (b) a Subclass 572 (Vocational Education and Training Sector) visa the applicant for which is:
 - (i) a person designated under regulation 2.07AO; or
 - (ii) a member of the family unit of a person designated under regulation 2.07AO;
- (c) a Subclass 573 (Higher Education Sector) visa the applicant for which is:
 - (i) a person designated under regulation 2.07AO; or
 - (ii) a member of the family unit of a person designated under regulation 2.07AO;
- (d) a Subclass 574 (Postgraduate Research Sector) visa the applicant for which is:
 - (i) a person designated under regulation 2.07AO; or

- (ii) a member of the family unit of a person designated under regulation 2.07AO.

Subdivision 1.4D.2 Becoming an approved special student sponsor

1.20UC Process for making application to become an approved special student sponsor

- (1) For subsection 140F (1) of the Act, a person or organisation may apply to the Minister for approval as a sponsor of:
 - (a) a person designated under regulation 2.07AO who applies for a visa of any of the following subclasses:
 - (i) a Subclass 571 (Schools Sector) visa;
 - (ii) a Subclass 572 (Vocational Education and Training Sector) visa;
 - (iii) a Subclass 573 (Higher Education Sector) visa;
 - (iv) a Subclass 574 (Postgraduate Research Sector) visa; and
 - (b) each person (if any) who is:
 - (i) a member of the family unit of the person designated under regulation 2.07AO; and
 - (ii) an applicant for the relevant student visa on the basis of meeting the secondary criteria for the visa.
- (2) An application must be made in writing.

Note There is no approved form for the application, and no application fee.
- (3) An application must:
 - (a) state that it relates to the sponsorship of:
 - (i) the person designated under regulation 2.07AO; and
 - (ii) each person (if any) mentioned in paragraph (1) (b); and
 - (b) include the undertakings mentioned in regulation 1.20UF in respect of:
 - (i) the person designated under regulation 2.07AO; and
 - (ii) each person (if any) mentioned in paragraph (1) (b); and

Regulation 1.20UD

- (c) give any other information requested for the purposes of the making of the application.

Note Details of the information to which paragraph (c) relates will be provided to applicants by Immigration.

- (4) An application must be made by:
 - (a) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this paragraph; or
 - (b) having the application delivered by a courier service to the address specified in a Gazette Notice for this paragraph.

1.20UD Approving an application to become an approved special student sponsor

- (1) For section 140E of the Act, the criteria for approval of a person or an organisation as an approved special student sponsor are that the Minister is satisfied that:
 - (a) the applicant is:
 - (i) a natural person who is permanently resident in Australia; or
 - (ii) an organisation; and
 - (b) the applicant has given the undertakings mentioned in regulation 1.20UF; and
 - (c) the applicant is capable of complying with the undertakings mentioned in regulation 1.20UF; and
 - (d) if the applicant has previously been required to comply with the immigration laws of Australia — the applicant has a satisfactory record of compliance.

Note Undertakings made by an approved special student sponsor in relation to:

- (a) a person designated under regulation 2.07AO; or
- (b) a member of the family unit of a person designated under regulation 2.07AO;

do not have effect until a relevant student visa is granted to the person or the member of the family unit (see subsection 140H (3) of the Act).

- (2) As soon as practicable after deciding an application for approval as an approved special student sponsor, the Minister must give the applicant:

Regulation 1.20UF

- (a) a copy of the written approval, or the decision to refuse the application; and
- (b) if the Minister refuses the application — a statement of the reasons for the decision.

Note Under section 140E of the Act, the Minister must approve a person as an approved special student sponsor if the criteria set out in regulation 1.20UD are satisfied.

1.20UE Terms of approval as special student sponsor

- (1) For subsection 140G (2) of the Act, an approval as an approved special student sponsor ceases to have effect on the earlier of:
 - (a) the day on which the application by the person designated under regulation 2.07AO for a relevant student visa mentioned in paragraph 1.20UC (1) (a) (the *first visa*) is finally determined (within the meaning of subsection 5 (9) of the Act); and
 - (b) the end of the period of 12 months commencing on the day on which the approval is given.
- (2) However, the approval is taken to continue in force after that day to the extent only that it would permit the person designated under regulation 2.07AO to apply for the grant of a relevant student visa mentioned in paragraph 1.20UC (1) (a) of the same subclass as the first visa for the purpose only of permitting the change of a condition relating to the working rights of the person or member of the family unit, or of permitting the change of an education provider.

1.20UF Sponsorship undertakings

For subsection 140H (1) of the Act, the undertakings that an applicant for approval as an approved special student sponsor must make are, in respect of the period during which the person holds the relevant student visa or visas (or would hold the relevant student visa or visas if granted):

- (a) to pay all course fees for each course in relation to which the relevant student visa would be granted; and

Regulation 1.20UF

- (b) to ensure that the standard of living (including the accommodation) of:
 - (i) the person mentioned in paragraph 1.20UC (1) (a); and
 - (ii) each person (if any) mentioned in paragraph 1.20UC (1) (b);while the person mentioned in subparagraph (i) or (ii) holds the relevant student visa (if the visa is granted) is consistent with a reasonable standard of living in Australia; and
- (c) to pay all reasonable education costs for each person (if any) mentioned in paragraph 1.20UC (1) (b); and
- (d) to make adequate arrangements in Australia for health insurance during the period of the intended stay in Australia of:
 - (i) the person designated under regulation 2.07AO; and
 - (ii) each person (if any) mentioned in paragraph 1.20UC (1) (b); and
- (e) either:
 - (i) for an application made before 1 November 2005 — to pay all medical or hospital expenses for:
 - (A) the person designated under regulation 2.07AO; and
 - (B) each person (if any) mentioned in paragraph 1.20UC (1) (b);(other than expenses that are met in accordance with health insurance arrangements); or
 - (ii) for an application made on or after 1 November 2005 — to pay all medical or hospital expenses for:
 - (A) the person designated under regulation 2.07AO; and
 - (B) each person (if any) mentioned in paragraph 1.20UC (1) (b);arising from treatment administered in a public hospital (other than expenses that are met by health insurance or reciprocal health care arrangements); and

Regulation 1.20UG

- (f) to give the Secretary accurate information, as soon as practicable, about:
- (i) any material change in the approved special student sponsor's circumstances; or
 - (ii) any matter that may affect the approved special student sponsor's ability to carry out the undertakings mentioned in this regulation; or
 - (iii) any material change in the circumstances of:
 - (A) the person designated under regulation 2.07AO; and
 - (B) each person (if any) mentioned in paragraph 1.20UC (1) (b).

1.20UG Consequences if approved special student sponsor or visa holder changes status — enforceability of undertaking

For subsection 140Q (1) of the Act, an undertaking arising out of the sponsorship of the holder of a relevant student visa remains enforceable against the approved special student sponsor concerned until the time set out in the following table.

Item	The undertaking set out in	Remains enforceable until
1	Paragraph 1.20UF (a)	The time when the full amount of the course fees has been paid
2	Paragraph 1.20UF (b)	The time when the full amount necessary to ensure a reasonable standard of living in Australia has been paid
3	Paragraph 1.20UF (c)	The time when the full amount of the education costs has been paid
4	Paragraph 1.20UF (d)	The holder ceases to hold the last of the relevant student visas
5	Paragraph 1.20UF (e)	The time when the full amount of the hospital and medical expenses has been paid
6	Subparagraph 1.20UF (f) (i) or (ii)	The holder ceases to hold the last of the relevant student visas

Regulation 1.20UH

Item	The undertaking set out in	Remains enforceable until
7	Subparagraph 1.20UF (f) (iii)	The earlier of: (a) the time when the holder is granted a visa other than a relevant student visa; and (b) the time when the holder departs Australia

Note Undertakings made by an approved special student sponsor in relation to:

- (a) a person designated under regulation 2.07AO; or
- (b) a member of the family unit of a person designated under regulation 2.07AO;

do not have effect until a relevant student visa is granted to the person or the member of the family unit (see subsection 140H (3) of the Act).

Subdivision 1.4D.3 General

1.20UH Disclosure of personal information

For section 140V of the Act:

- (a) personal information that may be disclosed to an approved special student sponsor (a *sponsor*) or a former approved special student sponsor (a *former sponsor*) about the holder or former holder of a relevant student visa (the *person*) is:
 - (i) details of any breaches of visa conditions by the person; and
 - (ii) details of any hospital or medical expenses for the person that the sponsor or former sponsor is required to pay; and
 - (iii) details of any health insurance arrangements made in relation to the person by the sponsor or former sponsor; and
 - (iv) details of any course of study in which the person was enrolled, including the fees for the course; and
 - (v) if the person held the visa on the basis of meeting the secondary criteria for the visa — details of the person's enrolment at a school (if any); and

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- (vi) details of any costs incurred by the Commonwealth in relation to the person; and
 - (vii) details of any non-compliance with the immigration laws of Australia by the person; and
 - (viii) if the person's standard of living, while the person was the holder of a relevant student visa was not consistent with a reasonable standard of living in Australia — that information; and
 - (ix) details of any material change in the person's circumstances; and
 - (x) details of any matter that affected the person's ability to comply with the conditions to which the person's visa was subject; and
- (b) the circumstances in which the Minister may disclose the personal information are that the disclosure is necessary to allow the sponsor or former sponsor to meet a liability relating to the sponsorship of the holder or former holder of the relevant student visa; and
- (c) the circumstance in which the sponsor or former sponsor may use or disclose the information is the circumstance set out in paragraph (b).

**Division 1.5 Special provisions relating to
family violence**

1.21 Interpretation

- (1) In this Division:

competent person means:

- (a) in relation to family violence committed against an adult:
- (i) a person registered as a medical practitioner under a law of a State or Territory providing for the registration of medical practitioners; or
 - (ii) a person registered as a psychologist under a law of a State or Territory providing for the registration of psychologists; or

Regulation 1.21

- (iii) a person who:
 - (A) is a registered nurse within the meaning of section 3 of the *Health Insurance Act 1973*; and
 - (B) is performing the duties of a registered nurse; or
- (iv) a person who:
 - (A) is a member of the Australian Association of Social Workers or is recognised by that Association as a person who is eligible to be a member of that Association; and
 - (B) is performing the duties of a social worker; or
- (v) a person who is a family consultant under the *Family Law Act 1975*; or
- (vi) a person holding a position of a kind described in subregulation (2); or
- (b) in relation to family violence committed against a child:
 - (i) a person referred to in paragraph (a); or
 - (ii) an officer of the child welfare or child protection authorities of a State or Territory.

independent expert means a person who:

- (a) is suitably qualified to make independent assessments of non-judicially determined claims of family violence; and
- (b) is employed by, or contracted to provide services to, an organisation that is specified, in a Gazette Notice for this definition, for the purpose of making independent assessments of non-judicially determined claims of family violence.

non-judicially determined claim of family violence has the meaning given by subregulation 1.23 (1A).

relevant family violence has the meaning given by paragraph 1.23 (2) (b).

statutory declaration means a statutory declaration under the *Statutory Declarations Act 1959*.

violence includes a threat of violence.

Regulation 1.23

- (2) The positions referred to in subparagraph (a) (vi) of the definition of *competent person* in subregulation (1) are:
- (a) manager or coordinator of:
 - (i) a women's refuge; or
 - (ii) a crisis and counselling service that specialises in family violence; or
 - (b) a position with:
 - (i) decision-making responsibility for:
 - (A) a women's refuge; or
 - (B) a crisis and counselling service that specialises in family violence;that has a collective decision-making structure; and
 - (ii) responsibility for matters concerning family violence within the operations of that refuge or crisis and counselling service.

1.22 References to person having suffered or committed family violence

- (1) A reference in these Regulations to a person having suffered family violence is a reference to a person being taken, under regulation 1.23, to have suffered family violence.
- (2) A reference in these Regulations to a person having committed family violence in relation to a person is a reference to a person being taken, under regulation 1.23, to have committed family violence in relation to that person.

1.23 When is a person taken to have suffered or committed family violence?

- (1) For the purposes of these Regulations:
 - (a) a person (*the alleged victim*) is taken to have suffered family violence; and
 - (b) another person (*the alleged perpetrator*) is taken to have committed family violence in relation to the alleged victim;

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- if:
- (c) on the application of the alleged victim, a court has granted an injunction under paragraph 114 (1) (a), (b) or (c) of the *Family Law Act 1975* against the alleged perpetrator; or
 - (d) a court has made an order under a law of a State or Territory against the alleged perpetrator for the protection of the alleged victim from violence and, unless the alleged victim had, before 1 January 1998, claimed to Immigration to have suffered domestic violence committed by the alleged perpetrator, that order was made after the court had given the alleged perpetrator an opportunity to be heard, or otherwise to make submissions to the court, in relation to the matter; or
 - (e) a court has convicted the alleged perpetrator of, or has recorded a finding of guilt against the alleged perpetrator in respect of, an offence of violence against the alleged victim; or
 - (f) the Minister is satisfied, for paragraph (1B) (a), that the alleged victim has suffered relevant family violence; or
 - (g) the Minister is required by subregulation (1C) to take as correct an opinion of an independent expert that the alleged victim has suffered relevant family violence.
- (1A) For these Regulations, an application for a visa is taken to include a ***non-judicially determined claim of family violence*** if:
- (a) the applicant seeks to satisfy a prescribed criterion that the applicant, or another person mentioned in the criterion, has suffered family violence; and
 - (b) either of the following circumstances exists:
 - (i) the alleged victim and the alleged perpetrator have made a joint undertaking to a court in relation to proceedings in which an allegation is before the court that the alleged perpetrator has committed an act of violence against the alleged victim;
 - (ii) for an alleged victim who is a person referred to in subregulation (2) — the alleged victim or another person on the alleged victim's behalf has presented evidence in accordance with regulation 1.24 that:

Regulation 1.23

- (A) the alleged victim has suffered relevant family violence; and
 - (B) the alleged perpetrator has committed that relevant family violence.
- (1B) If an application for a visa includes a non-judicially determined claim of family violence, the Minister must consider whether the alleged victim has suffered relevant family violence (whichever of the circumstances mentioned in paragraph (1A) (b) exists) and:
- (a) if satisfied that the alleged victim has suffered relevant family violence — consider the application on that basis; or
 - (b) if not satisfied that the alleged victim has suffered relevant family violence — seek the opinion of an independent expert about whether the alleged victim has suffered relevant family violence.
- (1C) The Minister must take an independent expert’s opinion on the matter mentioned in paragraph (1B) (b) to be correct for the purposes of deciding whether the alleged victim satisfies a prescribed criterion for a visa that requires the applicant for the visa, or another person mentioned in the criterion, to have suffered family violence.
- (2) In subparagraph (1A) (b) (ii):
- (a) the persons referred to are the following:
 - (i) a spouse or de facto partner of the alleged perpetrator;
 - (ii) a dependent child of:
 - (A) the alleged perpetrator; or
 - (B) the spouse or de facto partner of the alleged perpetrator; or
 - (C) both the alleged perpetrator and his or her spouse or de facto partner;
 - (iii) a member of the family unit of a spouse or de facto partner of the alleged perpetrator (being a member of the family unit who has made a combined application for a visa with the spouse or de facto partner); and

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- (b) a reference to relevant family violence is a reference to conduct, whether actual or threatened, towards:
- (i) the alleged victim; or
 - (ii) a member of the family unit of the alleged victim; or
 - (iii) a member of the family unit of the alleged perpetrator; or
 - (iv) the property of the alleged victim; or
 - (v) the property of a member of the family unit of the alleged victim; or
 - (vi) the property of a member of the family unit of the alleged perpetrator;
- that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety.

1.24 Evidence

- (1) The evidence referred to in subparagraph 1.23 (1A) (b) (ii) is:
- (a) a statutory declaration under regulation 1.25 (which deals with statutory declarations by or on behalf of alleged victims) together with:
 - (i) a statutory declaration under regulation 1.26 (which deals with statutory declarations by competent persons); and
 - (ii) a copy of a record of an assault, allegedly committed by the alleged perpetrator, on:
 - (A) the alleged victim; or
 - (B) a member of the family unit of the alleged victim; or
 - (C) a member of the family unit of the alleged perpetrator;that is a record kept by a police service of a State or Territory (other than a statement by the alleged victim or by the person allegedly assaulted); or
 - (b) a statutory declaration under regulation 1.25, together with 2 statutory declarations under regulation 1.26.

Regulation 1.25

- (2) A person must not submit, for the purposes of an application that relies on this Division, 2 statutory declarations by competent persons who both have a qualification specified in:
 - (a) the same subparagraph of paragraph (a) of the definition of *competent person*; or
 - (b) subparagraph (b) (ii) of that definition.

1.25 Statutory declaration by alleged victim etc

- (1) A statutory declaration under this regulation must be made by the spouse or de facto partner of the alleged perpetrator.
- (2) A statutory declaration under this regulation that is made by a person mentioned in subregulation 1.25 (1) who alleges that he or she is the victim of relevant family violence (within the meaning of paragraph 1.23 (2) (b)) must:
 - (a) set out the allegation; and
 - (b) name the person alleged to have committed the relevant family violence; and
 - (c) if the conduct of the person alleged to have committed the relevant family violence was not towards the alleged victim:
 - (i) name the person whom the conduct of the alleged perpetrator was towards; and
 - (ii) identify the relationship between the maker of the statutory declaration and the person whom the conduct was towards.
- (3) A statutory declaration under this regulation that is made by a person mentioned in subregulation 1.25 (1) who alleges that another person is the victim of relevant family violence (within the meaning of paragraph 1.23 (2) (b)) must:
 - (a) name that other person; and
 - (b) set out the allegation; and
 - (c) identify the relationship of the maker of the statutory declaration to that other person; and
 - (d) name the person alleged to have committed the relevant family violence; and

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- (e) if the conduct of the person alleged to have committed the relevant family violence was not towards the alleged victim:
 - (i) name the person whom the conduct of the alleged perpetrator was towards; and
 - (ii) identify the relationship between the alleged victim and the person whom the conduct was towards; and
 - (iii) identify the relationship between the maker of the statutory declaration and the person whom the conduct was towards; and
- (f) set out the evidence on which the allegation is based.

1.26 Statutory declaration by competent person

A statutory declaration under this regulation:

- (a) must be made by a competent person; and
- (b) must set out the basis of the competent person's claim to be a competent person for the purposes of this Division; and
- (c) must state that, in the competent person's opinion, relevant family violence (within the meaning of paragraph 1.23 (2) (b)) has been suffered by a person; and
- (d) must name the person who, in the opinion of the competent person, has suffered that relevant family violence; and
- (e) must name the person who, in the opinion of the competent person, committed that relevant family violence; and
- (f) if the conduct of the person alleged to have committed the relevant family violence was not towards the alleged victim:
 - (i) must name the person whom the conduct of the alleged perpetrator was towards; and
 - (ii) must identify the relationship between the alleged victim and the person whom the conduct was towards; and
- (g) must set out the evidence on which the competent person's opinion is based.

1.27 Statutory declaration or statement not admissible in evidence

A statutory declaration made under regulation 1.25 or 1.26, or an opinion of an independent expert mentioned in paragraph 1.23 (1B) (b), is not admissible in evidence before a court or tribunal otherwise than in:

- (a) an application for judicial review or merits review of a decision to refuse to grant a visa the application for which included the non-judicially determined claim of family violence to which the statutory declaration or opinion relates; or
- (b) a prosecution of the maker of the statutory declaration under section 11 of the *Statutory Declarations Act 1959*.

Division 1.6 Immigration Minister's suspension certificate under *Education Services for Overseas Students Act 2000*

1.30 Prescribed non-citizen

For section 101 of the *Education Services for Overseas Students Act 2000*, a non-citizen who is an applicant for, or the holder of, a student visa is prescribed.

Division 1.8 Special provisions for student visas

1.40 Definitions

- (1) In this Division, a passport is an *eligible passport* if:
 - (a) it is a valid passport of a kind specified by Gazette Notice for the purposes of this subregulation; and
 - (b) the conditions (if any) specified by Gazette Notice for passports of that kind are satisfied.

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- (2) In a provision mentioned in subregulation (4), if an applicant for a student visa proposes to undertake a course of study that is a registered course, the course is the *principal course*.
- (3) For subregulation (2), if:
 - (a) an applicant for a student visa proposes to undertake two or more courses of study that are registered courses; and
 - (b) either:
 - (i) one of the courses of study (*course A*) is a prerequisite to another of the courses (*course B*); or
 - (ii) one of the courses of study (*course B*) may be taken only after the completion of another of the courses (*course A*);course B, not course A, is the *principal course*.
- (4) Subregulation (2) applies to any of the following provisions:
 - (a) a provision of this Division;
 - (b) a provision of Part 442, 570, 571, 572, 573, 574 or 575 of Schedule 2;
 - (c) a provision of Schedule 5A.

1.40A Courses for education sectors to be specified by Minister

The Minister must specify by Gazette Notice the types of courses for each subclass of student visa, except Subclass 576 (AusAID or Defence Sector).

1.41 Assessment levels to be specified by Minister

- (1) The Minister must specify by Gazette Notice an assessment level for a kind of eligible passport, in relation to each subclass of student visa, to which an applicant for a student visa who seeks to satisfy the primary criteria will be subject, other than an applicant who:
 - (a) is a person designated under regulation 2.07AO; and
 - (b) applies for:
 - (i) a Subclass 571 (Schools Sector) visa; or

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- (ii) a Subclass 572 (Vocational Education and Training Sector) visa; or
 - (iii) a Subclass 573 (Higher Education Sector) visa; or
 - (iv) a Subclass 574 (Postgraduate Research Sector) visa.
- (2) In specifying an assessment level, the Minister must consider the risk posed by applicants who hold a kind of eligible passport in terms of:
- (a) their being genuine students; and
 - (b) their engaging, while in Australia, in conduct (including omissions) not contemplated by the visa.
- (3) In considering the risk, the Minister must have regard to:
- (a) 1 or more of the following statistics prepared by the Secretary in relation to the kind of eligible passport:
 - (i) the number of former holders of student visas who have become unlawful non-citizens;
 - (ii) the number of student visas that have been cancelled;
 - (iii) the number of applications for student visas that have been refused;
 - (iv) the number of fraudulent documents detected by Immigration in relation to applications for student visas;
 - (v) the number of holders of student visas who have applied for protection visas or for permanent visas other than Business Skills (Residence) (Class BH), Business Skills — Established Business (Residence) (Class BH), Business Skills (Residence) (Class DF), Business Skills — Business Talent (Migrant) (Class EA), Skilled — Independent Overseas Student (Class DD) and Skilled — Australian-sponsored Overseas Student (Class DE) visas; and
 - (b) any other matters that the Minister considers relevant.
- (4) The assessment level specified for a kind of eligible passport:
- (a) must be a number from 1 to 5, with assessment level 1 specified for a passport, holders of which pose a very low risk and assessment level 5 specified for a passport, holders of which pose an extremely high risk; and

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- (b) is not required to be the same for each subclass of student visa.

1.42 Assessment level of applicant

- (1) An applicant for a student visa who seeks to satisfy the primary criteria is subject to the assessment level specified by the Minister at the time of application in relation to the relevant subclass of student visa for the eligible passport that the applicant holds at the time of decision.
- (2) Despite subregulation (1), an applicant is subject to assessment level 2 if:
 - (a) the application is made in Australia before 31 December 2006; and
 - (b) the application is made on form 157A or 157A (Internet); and
 - (c) the applicant:
 - (i) is the holder of a Subclass 560 visa as a person who satisfied the primary criteria in Subdivisions 560.21 and 560.22; or
 - (ii) is the holder of a Subclass 562 visa; or
 - (iii) both:
 - (A) is the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa (as a person who satisfied the primary criteria for the subclass) that is subject to condition 8105; and
 - (B) was, immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 562 visa that was subject to condition 8101; and
 - (d) apart from this subregulation, the applicant would be subject to assessment level 3, 4 or 5; and
 - (e) subregulation (3) or (4) applies to the applicant.
- (3) This subregulation applies to an applicant who:
 - (a) was assessed in relation to an application for a student visa to undertake a package of courses of study; and
 - (b) was granted the student visa; and

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- (c) needs a further student visa to commence 1 or more courses in the package.
- (4) This subregulation applies to an applicant who:
 - (a) has completed at least 50% of the principal course for which the student visa held was granted; and
 - (b) needs a further student visa to complete that course.
- (5) Subregulation (6) applies to an applicant if:
 - (a) the application:
 - (i) is made on form 157A or 157A (Internet); and
 - (ii) is made in Australia on or before 31 March 2002; and
 - (b) the applicant:
 - (i) would, but for this subregulation, be subject to assessment level 3, 4 or 5; and
 - (ii) has, within the period beginning on 1 July 2001 and ending on 31 March 2002, successfully completed a course of study in Australia as the holder of a student visa.
- (6) Despite subregulation (1), an applicant to whom this subregulation applies is subject to assessment level 2 if:
 - (a) the applicant is the holder of:
 - (i) a Subclass 560 visa as a person who satisfied the primary criteria; or
 - (ii) a Subclass 562 visa; or
 - (b) the applicant:
 - (i) is, as a person who satisfied the primary criteria, the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the application for which was made on form 157P; and
 - (ii) was, immediately before being granted that visa, the holder of a Subclass 560 or 562 visa; or
 - (c) the applicant:
 - (i) is, as a person who satisfied the primary criteria, the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa; and

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- (ii) was, immediately before being granted that visa, the holder of a Subclass 560 or 562 visa; or
- (d) the applicant:
 - (i) is, as a person who satisfied the primary criteria, the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the application for which was made on form 157P; and
 - (ii) was:
 - (A) immediately before being granted that visa, the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa; and
 - (B) immediately before being granted the visa mentioned in sub-subparagraph (A), the holder of a Subclass 560 or 562 visa; or
- (e) the applicant:
 - (i) is, as a person who satisfied the primary criteria, the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa; and
 - (ii) was:
 - (A) immediately before being granted that visa, the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the application for which was made on form 157P; and
 - (B) immediately before being granted the visa mentioned in sub-subparagraph (A), the holder of a Subclass 560 or 562 visa.
- (7) Subregulations (1) to (6) do not apply to an applicant who is a person designated under regulation 2.07AO.

1.43 Notification of assessment level

- (1) If, at the time of decision, the applicant holds 2 or more eligible passports the Minister must:
 - (a) select the passport that is to be taken as the applicant's eligible passport for the purposes of the assessment level to which the applicant will be subject; and
 - (b) notify the applicant of the passport selected and the level of assessment of that passport.

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- (2) In selecting the passport, the Minister may have regard to the following:
- (a) the foreign country of which the applicant is a citizen;
 - (b) the foreign country of which the applicant is usually a resident;
 - (c) any other relevant matter.

1.44 Evidence required

- (1) An applicant for a student visa who seeks to satisfy the primary criteria for a subclass of visa must give evidence about the applicant's English language proficiency and financial capacity, and about other matters, in accordance with the requirements set out in Schedule 5A for the subclass of visa and assessment level to which the applicant is subject.
- (2) For Parts 573 and 574 of Schedule 2, the Minister may specify by Gazette Notice a course of study that is not conducted in English as a course:
- (a) in relation to which the applicant need not give evidence of his or her English language proficiency; and
 - (b) that is relevant to an application for:
 - (i) a Subclass 573 (Higher Education Sector) visa, in circumstances in which the applicant is enrolled in a masters degree by coursework; or
 - (ii) a Subclass 574 (Postgraduate Research Sector) visa.

Regulation 2.01

Part 2 Visas

Division 2.1 Classes, criteria, conditions etc

2.01 Classes of visas (Act, s 31)

For the purposes of section 31 of the Act, the prescribed classes of visas are:

- (a) such classes (other than those created by the Act) as are set out in the respective items in Schedule 1; and
- (b) the following classes:
 - (i) transitional (permanent); and
 - (ii) transitional (temporary).

Note For the classes created by the Act, see ss. 32 to 38.

2.02 Subclasses

- (1) Schedule 2 is divided into Parts, each identified by the word “Subclass” followed by a 3-digit number (being the number of the subclass of visa to which the Part relates) and the title of the subclass.
- (2) For the purposes of this Part and Schedules 1 and 2, a Part of Schedule 2 is relevant to a particular class of visa if the Part of Schedule 2 is listed under the subitem “Subclasses” in the item in Schedule 1 that refers to that class of visa.

2.03 Criteria applicable to classes of visas

- (1) For the purposes of subsection 31 (3) of the Act (which deals with criteria for the grant of a visa) and subject to regulation 2.03A, the prescribed criteria for the grant to a person of a visa of a particular class are:
 - (a) the primary criteria set out in a relevant Part of Schedule 2; or
 - (b) if a relevant Part of Schedule 2 sets out secondary criteria, those secondary criteria.

Regulation 2.03

- (2) If a criterion in Schedule 2 refers to a criterion in Schedule 3, 4 or 5 by number, a criterion so referred to must be satisfied by an applicant as if it were set out at length in the first-mentioned criterion.
- (3) If a criterion in Schedule 2 specifies that a person is to be the holder of, or have held, a visa of a particular class or subclass, that criterion is taken to be satisfied:
- (a) if:
- (i) before 1 September 1994, the person held a visa or entry permit that was granted under the Migration (1993) Regulations, the Migration (1989) Regulations or the Act as in force before 19 December 1989; and
 - (ii) the criteria that were applicable to, or the grounds for the grant of, that visa or entry permit are the same in effect as the criteria applicable to the new visa; and
 - (iii) the visa or entry permit was continued in force as a transitional visa on 1 September 1994 by the Migration Reform (Transitional Provisions) Regulations; or
- (b) if:
- (i) before 1 September 1994, the person applied for a visa or entry permit under the Migration (1993) Regulations, the Migration (1989) Regulations or the Act as in force before 19 December 1989; and
 - (ii) the criteria that were applicable to, or the grounds for the grant of, that visa or entry permit are the same in effect as the criteria applicable to the new visa; and
 - (iii) either:
 - (A) in the case of an application made before 19 December 1989 — the Minister had not made a decision on the application; or
 - (B) in any other case — the application had not been finally determined;before 1 September 1994; and

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- (iv) on or after 1 September 1994 the person was granted a transitional visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she had satisfied the criteria, or the grounds, applicable to the visa or entry permit referred to in subparagraph (i).

2.03A Criteria applicable to de facto partners

- (1) In addition to the criteria prescribed by regulation 2.03, if a person claims to be in a de facto relationship for the purposes of a visa application, the criteria in subregulations (2) and (3) are prescribed.
- (2) If a person mentioned in subregulation (1) applies for a visa:
 - (a) the applicant is at least 18; and
 - (b) the person with whom the applicant claims to be in a de facto relationship is at least 18.
- (3) Subject to subregulation (4), if:
 - (a) a person mentioned in subregulation (1) applies for:
 - (i) a permanent visa; or
 - (ii) a Business Skills (Provisional) (Class UR) visa; or
 - (iii) a Student (Temporary) (Class UT) visa; or
 - (iv) a Partner (Provisional) (Class UF) visa; or
 - (v) a Partner (Temporary) (Class UK) visa; or
 - (vi) a General Skilled Migration visa; and
 - (b) the applicant cannot establish compelling and compassionate circumstances for the grant of the visa; the Minister must be satisfied that the applicant has been in the de facto relationship for at least the period of 12 months ending immediately before the date of the application.
- (4) Subregulation (3) does not apply if the applicant applies on the basis of being:
 - (a) in a de facto relationship with a person who:
 - (i) is, or was, the holder of a permanent humanitarian visa; and

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- (ii) before the permanent humanitarian visa was granted, was in a de facto relationship with the applicant and informed Immigration of the existence of the relationship; or
- (b) in a de facto relationship with a person who is an applicant for a permanent humanitarian visa.

2.04 Circumstances in which a visa may be granted (Act, s 40)

- (1) For subsection 40 (1) of the Act, and subject to these Regulations:
 - (a) a visa other than a visa of a class mentioned in subregulation (2) may be granted to a person who has satisfied the criteria in a relevant Part of Schedule 2 only if the circumstances set out in that Part of Schedule 2 exist; and
 - (b) a visa of a class mentioned in subregulation (2) may be granted to a person who has satisfied the criteria in a relevant Part of Schedule 2 only if:
 - (i) the circumstances set out in that Part of Schedule 2 exist; and
 - (ii) 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.
- (2) For paragraph 40 (3) (a) of the Act, the circumstance is that a person is an applicant for a visa of one of the following classes:
 - (a) Protection (Class XA);
 - (b) Refugee and Humanitarian (Class XB);
 - (c) Temporary Safe Haven (Class UJ).
- (3) For subsection 40 (5) of the Act, the circumstance is that the person is an applicant for a visa of one of the following classes:
 - (a) Protection (Class XA);
 - (b) Refugee and Humanitarian (Class XB);
 - (c) Temporary Safe Haven (Class UJ).
- (4) For subsection 40 (5) of the Act, the following types of personal identifier are prescribed:

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- (a) a photograph or other image of the applicant's face and shoulders;
- (b) the applicant's signature.

2.05 Conditions applicable to visas

- (1) For the purposes of subsection 41 (1) of the Act (which deals with conditions that apply to a visa), the conditions to which a visa is subject are the conditions (if any) set out in, or referred to in, the Part of Schedule 2 that relates to visas of the subclass in which the visa is included.
- (2) For the purposes of subsection 41 (3) of the Act (which deals with conditions that may be imposed on a visa), the conditions that the Minister may impose on a visa are the conditions (if any) referred to as being conditions that may be imposed in the Part of Schedule 2 that relates to visas of the subclass in which the visa is included.
- (3) For the purposes of subsections 29 (2) and (3) of the Act (which deal with the period during which the holder of a visa may travel to, enter and remain in Australia), the limits on the period within which a person may:
 - (a) remain in Australia; or
 - (b) travel to, enter, and remain in Australia;
as the case requires, under the authority of a visa of a particular subclass are specified in the relevant Part of Schedule 2.
- (4) For subsection 41 (2A) of the Act, the circumstances in which the Minister may waive a condition of a kind described in paragraph 41 (2) (a) of the Act are that:
 - (a) since the person was granted the visa that was subject to the condition, compelling and compassionate circumstances have developed:
 - (i) over which the person had no control; and
 - (ii) that resulted in a major change to the person's circumstances; and
 - (b) if the Minister has previously refused to waive the condition, the Minister is satisfied that the circumstances mentioned in paragraph (a) are substantially different from those considered previously; and

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- (c) if the person asks the Minister to waive the condition, the request is in writing.
- (4A) However, the Minister must not waive:
 - (a) in relation to a Subclass 020 Bridging B visa granted to a person who is an applicant for a Subclass 462 (Work and Holiday) visa — condition 8540; and
 - (b) in relation to a Subclass 462 (Work and Holiday) visa — conditions 8503 and 8540.
- (5) For subsection 41 (2A) of the Act, further circumstances in which the Minister may waive condition 8534 in relation to a visa are that the holder of the visa:
 - (a) has, after holding a student visa to which condition 8534 applies, been granted:
 - (i) a Subclass 497 (Graduate — Skilled) visa; or
 - (ii) a Subclass 010 (Bridging A) visa or a Subclass 020 (Bridging B) visa associated with the Subclass 497 (Graduate — Skilled) visa application; and
 - (b) has not, after holding a student visa to which condition 8534 applies, been granted a protection visa.
- (5A) For subsection 41 (2A) of the Act, further circumstances in which the Minister may waive condition 8534 in relation to a visa are that the holder of the visa:
 - (a) has completed the course for which the visa was granted; and
 - (b) has a genuine intention to apply for a General Skilled Migration visa.
- (6) For subsection 41 (2A) of the Act, further circumstances in which the Minister may waive condition 8534 in relation to a visa are that the holder of the visa is a registered nurse, or satisfies the requirements for registration as a registered nurse, in Australia.

Note Regulation 2.07AH deals with applications for visas by persons for whom condition 8534 has been waived under subregulation 2.05 (6).

Regulation 2.06

2.06 Non-citizens who do not require visas to travel to Australia

For the purposes of subsection 42 (3) of the Act (which deals with the classes of person who may travel to Australia without a visa that is in effect), the following classes of non-citizens are prescribed:

- (a) New Zealand citizens who hold and produce New Zealand passports that are in force;
- (b) non-citizens who hold and produce passports that are in force and are endorsed with an authority to reside indefinitely on Norfolk Island.

2.06AAA Entry to Australia — Maritime Crew (Temporary) (Class ZM) visas

- (1) For subsection 43 (1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia on a non-military ship at a proclaimed port, other than at an excised offshore place.
- (2) For subsection 43 (1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia if:
 - (a) the holder is on a non-military ship; and
 - (b) the ship enters Australia at an excised offshore place that is:
 - (i) a proclaimed port; or
 - (ii) a place for which permission has been given, in advance under section 58 of the *Customs Act 1901*, for the ship to be brought to that place; and
 - (c) before the holder enters Australia, the operator of the ship has complied with the reporting requirements in sections 64, 64ACA and 64ACB of the *Customs Act 1901* in accordance with those sections and the *Customs Regulations 1926*.

Note The reporting requirements in sections 64, 64ACA and 64ACB of the *Customs Act 1901* provide, in general, that an operator of a ship that is due to arrive at a port must:

- (a) report the impending arrival of the ship; and
- (b) report to Customs on the passengers who will be on board the ship at the time of its arrival in port; and

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- (c) report to Customs on the crew who will be on board the ship at the time of its arrival in port.

The Customs Act and the *Customs Regulations 1926* specify time limits within which the reporting is to be done.

- (3) For subsection 43 (1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia in a way other than those described in subregulations (1) and (2) if:
- (a) health or safety reasons require entry in that way; and
 - (b) the holder of the visa does not enter Australia at an excised offshore place.
- (4) For subsection 43 (1A) of the Act, a maritime crew visa that is in effect is permission for the holder to enter Australia in a way other than those described in subregulations (1), (2) and (3) if an authorised officer authorises the holder to enter Australia in that way.

2.06AA Decision periods — decisions on protection visas

For paragraph 65A (1) (d) of the Act, and for paragraph (b) of the definition of *decision period* in subsection 91Y (10) of the Act, the table sets out:

- (a) prescribed circumstances; and
- (b) in the prescribed circumstances — the day on which the 90 day period, to which paragraph 65A (1) (d) or paragraph (b) of the definition relates, starts.

Note Under section 65A of the Act, the Minister must make a decision under section 65 of the Act, in relation to a protection visa, within a period of 90 days. In circumstances prescribed by the regulations, the period of 90 days starts on a day prescribed by the regulations.

Under paragraph (b) of the definition of *decision period* in subsection 91Y (10) of the Act, the Secretary must give a report to the Minister about decisions, in relation to protection visas, not made within a period of 90 days. In circumstances prescribed by the regulations, the period of 90 days starts on a day prescribed by the regulations.

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Item	Prescribed circumstance	Day on which the 90 day period starts
1	Both: (a) an applicant for a Protection (Class XA) visa is the holder of a Subclass 785 (Temporary Protection) visa at the time of decision on the application for the Protection (Class XA) visa; and (b) the applicant applied for the Protection (Class XA) visa during a continuous period of 30 months during which the applicant has held: (i) a Subclass 785 (Temporary Protection) visa; or (ii) that visa and another Subclass 785 (Temporary Protection) visa.	If the Minister has specified a shorter period for paragraph 866.228 (b) of Schedule 2 — the first day after the end of the shorter period. If the Minister has not specified a shorter period for paragraph 866.228 (b) of Schedule 2 — the first day after the day on which the applicant has held: (a) the Subclass 785 (Temporary Protection) visa; or (b) that visa and another Subclass 785 (Temporary Protection) visa; for a continuous period of 30 months.
2	Both: (a) an applicant for a Protection (Class XA) visa is the holder of a Subclass 451 (Secondary Movement Relocation (Temporary)) visa at the time of decision on the application for the Protection (Class XA) visa; and	If the Minister has specified a shorter period for paragraph 866.228A (b) of Schedule 2 — the first day after the end of the shorter period. If the Minister has not specified a shorter period for paragraph 866.228A (b) of Schedule 2 — the first day after the day on which the applicant has held the Subclass 451 (Secondary Movement Relocation (Temporary)) visa for a continuous period of 54 months.

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Item	Prescribed circumstance	Day on which the 90 day period starts
	(b) the applicant applied for the Protection (Class XA) visa during a continuous period of 54 months during which the applicant has held that Subclass 451 (Secondary Movement Relocation (Temporary)) visa.	
3	Both: (a) an applicant for a Protection (Class XA) visa, or a member of the family unit of an applicant for a Protection (Class XA) visa, has been offered a temporary stay in Australia by the Australian Government for the purpose of an application for a Temporary (Humanitarian Concern) (Class UO) visa, as provided for by regulation 2.07AC; and (b) the applicant applied for the Protection (Class XA) visa not later than 30 months after the date on which the offer was made.	<p>If the Minister has specified a shorter period for paragraph 866.229 (b) of Schedule 2 — the first day after the end of the shorter period.</p> <p>If the Minister has not specified a shorter period for paragraph 866.229 (b) of Schedule 2 — the first day after the end of the period of 30 months starting on the date on which the offer was made.</p>

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Division 2.2 Applications

2.06A Definition

In this Division:

a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia means a diplomatic office, consular office (other than a consular office headed by an honorary consul) or migration office maintained by or on behalf of the Commonwealth outside Australia.

2.07 Application for visa — general

- (1) For the purposes of sections 45 and 46 of the Act (dealing with application for a visa), if an application is required for a particular class of visa, the following matters are set out in the relevant Part of Schedule 1:
 - (a) the approved form (if any) to be completed by an applicant;
 - (b) the visa application charge (if any) payable in relation to an application;
 - (c) other matters relating to the application.
- (3) An applicant must complete an approved form in accordance with any directions on it.
- (4) An application for a visa that is made using an approved form is not a valid application if the applicant does not set out his or her residential address:
 - (a) in the form; or
 - (b) in a separate document that accompanies the application.

2.07A Certain applications not valid bridging visa applications

An application for a substantive visa made on a form mentioned in subitem 1301 (1), 1303 (1) or 1305 (1) is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa in either of the following circumstances:

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- (a) the applicant was not in Australia when the application for the substantive visa was made;
- (b) the substantive visa is a visa of a kind that can only be granted if the applicant is outside Australia.

Note Other provisions relating to the making of applications for bridging visas are regulations 2.10A, 2.10B and 2.20A.

2.07AA Applications for certain visitor visas

- (2) Despite anything in regulation 2.07, for sections 45 and 46 of the Act, an application for a Temporary Business Entry (Class UC) visa is taken to have been validly made if:
 - (a) the applicant is:
 - (i) the holder of a valid passport issued by a designated APEC economy; or
 - (ii) in the case of an applicant who is a permanent resident of Hong Kong — the holder of any valid passport; and
 - (b) the applicant:
 - (i) has applied to the Government of the designated APEC economy for an APEC Business Travel Card under arrangements in force between Australia and designated APEC economies; or
 - (ii) in the case of an applicant who is a permanent resident of Hong Kong — has applied to the Government of Hong Kong for an APEC Business Travel Card under arrangements in force between Australia and designated APEC economies; and
 - (c) that Government has sent to an office of Immigration that is approved in writing by the Minister as an office to which an application for a Temporary Business Entry (Class UC) visa may be made:
 - (i) that application, or a copy of that application, by written communication (including facsimile message); or
 - (ii) the information contained in that application by electronic transmission using a computer; or
 - (iii) that application, or a copy of that application, in any other manner approved in writing by the Minister.

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- (3) If:
- (a) an applicant for a Temporary Business Entry (Class UC) visa is described in paragraphs (2) (a) and (b); and
 - (b) the Government of the designated APEC economy or the Government of Hong Kong has sent the material required under paragraph (2) (c) to an office of Immigration that is approved in writing by the Minister as an office to which an application for a Temporary Business Entry (Class UC) visa may be made;
- the application for the visa is taken to have been made at that office of Immigration.

2.07AB Applications for Electronic Travel Authority visas

- (1) For the purposes of sections 45 and 46 of the Act, an application for an Electronic Travel Authority (Class UD) visa that is made in Australia (except in immigration clearance), or outside Australia, is taken to have been validly made if the applicant, when seeking the grant of the visa, whether:
- (a) in person; or
 - (b) by telephone; or
 - (c) by written communication (including facsimile message or email); or
 - (d) by electronic transmission using a computer; or
 - (e) in any other manner approved in writing by the Minister; provides his or her passport details to:
 - (f) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (g) an office of an agent mentioned in paragraph (3) (b).
- (2) For the purposes of sections 45 and 46 of the Act, an application for an Electronic Travel Authority (Class UD) visa that is made by the applicant, in person, while in immigration clearance, is taken to have been validly made if:
- (a) the applicant presents to an officer an ETA-eligible passport;
 - (b) the passport is not endorsed with an authority to reside indefinitely on Norfolk Island; and

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- (c) after reasonable enquiries, the officer does not find that the applicant is the holder of a visa that is in effect; and
 - (d) the applicant asks an officer for an Electronic Travel Authority (Class UD) visa.
- (3) If a person makes an application for an Electronic Travel Authority (Class UD) to:
- (a) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (b) an office of an agent who is approved in writing by the Minister as an agent with whom an application for an Electronic Travel Authority (Class UD) visa may be made; by telephone, in writing (including by fax), by electronic transmission using a computer or in any other manner approved in writing by the Minister for this subregulation, the person is taken to have made the application at that office.
- (4) For sections 45 and 46 of the Act, and despite paragraph (1) (d), an application for an Electronic Travel Authority (Class UD) visa made by an eVisitor eligible passport holder is taken not to have been made validly if it is made by electronic transmission using a computer.

2.07AC Applications for Temporary Safe Haven and Temporary (Humanitarian Concern) visas

- (1) For subsection 46 (2) of the Act, each of the following classes of visa is a prescribed class of visa:
- (a) the Temporary Safe Haven (Class UJ) visa class;
 - (b) the Temporary (Humanitarian Concern) (Class UO) visa class.
- (2) An application for a visa of a class mentioned in subregulation (1) is taken to have been validly made by a person (the *interviewee*) if:
- (a) the interviewee indicates to an authorised officer that he or she accepts the Australian Government's offer of a temporary stay in Australia; and
 - (b) the authorised officer endorses, in writing, the interviewee's acceptance of the offer.

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- (3) An application for a visa of a class mentioned in subregulation (1) is also taken to have been validly made by a person if an interviewee identifies the person as being a member of his or her family unit.

2.07AE Applications for Designated Parent visas

For section 45 and subsection 46 (1) of the Act, and in addition to regulation 2.07, an application for a Designated Parent (Migrant) (Class BY) or Designated Parent (Residence) (Class BZ) visa is validly made if the applicant:

- (a) is invited in writing by the Minister to apply for the visa; and
(b) indicates in writing to Immigration that he or she accepts that invitation.

2.07AF Certain applications for Student (Temporary) (Class TU) visas

- (1) Despite anything in regulation 2.07, an application for a student visa that, under paragraph 1222 (1) (a), may be made on form 157E may be made on behalf of an applicant.
- (2) An application that is made on form 157E is taken to have been made outside Australia.
- (3) An application made on form 157A, 157A (Internet), 157E or 157G by a person who seeks to satisfy the primary criteria (the *primary applicant*) must include:
- (a) the name, date of birth and citizenship of each person who is a member of the family unit of the applicant at the time of the application; and
(b) the relationship between the person and the applicant.
- (4) If a person becomes a member of the family unit of the primary applicant after the time of application and before the time of decision, the primary applicant must inform the Minister, in writing, of:
- (a) the name, date of birth and citizenship of the person and

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- (b) the relationship between the person and the primary applicant.
 - (5) Subregulations (3) and (4) apply:
 - (a) whether or not the member of the family unit is an applicant for a Student (Temporary) (Class TU) visa; and
 - (b) if the member of the family unit is not an applicant for a Student (Temporary) (Class TU) visa — whether or not the member of the family unit intends to become an applicant for a Student (Temporary) (Class TU) visa.
- Note* **member of the family unit** of an applicant for a Student (Temporary) (Class TU) visa is defined in subregulation 1.12 (2).
- (6) An application made under paragraph 1222 (3) (aa) of Schedule 1 is taken to have been made outside Australia.

2.07AG Applications for certain substantive visas by persons for whom condition 8534 has been waived under subregulation 2.05 (5) or (5A)

For section 46 of the Act, an application for a substantive visa by a person for whom condition 8534 has been waived under subregulation 2.05 (5) or (5A) is a valid application only if the application is for a Class VB or Class VC visa.

2.07AH Applications for certain substantive visas by persons for whom condition 8534 has been waived under subregulation 2.05 (6)

For section 46 of the Act, if:

- (a) condition 8534 has been waived under subregulation 2.05 (6) in relation to a visa held by a person; and
- (b) the first application for a substantive visa that the person makes after the waiver of the condition is made in Australia;

the application is taken to have been validly made only if it is an application for a Subclass 457 (Business (Long Stay)) visa.

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2.07AI Applications for certain substantive visas by persons holding Subclass 173 or 884 visas

- (1) For section 46 of the Act, an application for a substantive visa by a person in Australia who has, at any time since last entering Australia, held a Subclass 173 (Contributory Parent (Temporary)) visa is a valid application only if the application is for:
 - (a) a Contributory Parent (Migrant) (Class CA) visa; or
 - (b) a Medical Treatment (Visitor) (Class UB) visa; or
 - (c) a protection visa.
- (2) For section 46 of the Act, an application for a substantive visa by a person in Australia who has, at any time since last entering Australia, held a Subclass 884 (Contributory Aged Parent (Temporary)) visa is a valid application only if the application is for:
 - (a) a Contributory Aged Parent (Residence) (Class DG) visa; or
 - (b) a Medical Treatment (Visitor) (Class UB) visa; or
 - (c) a protection visa.

2.07AK Applications for Witness Protection (Trafficking) (Permanent) (Class DH) visas

- (1) For subsection 46 (2) of the Act, a Witness Protection (Trafficking) (Permanent) (Class DH) visa is a prescribed class of visa.

Note Section 46 of the Act sets out the circumstances in which an application for a visa is valid. Under subsection 46 (2) of the Act, an application for a visa is valid if:

 - it is an application for a class of visa that is prescribed for that subsection; and
 - under the regulations, the application is taken to have been validly made.
- (2) An application for a visa of a class mentioned in subregulation (1) is taken to have been validly made by a person only if the requirements of subregulation (3) or (4) are met.

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- (3) The requirements of this subregulation are met for a person if:
- (a) the person is in Australia; and
 - (c) the Attorney-General (or a person authorised by the Attorney-General) has issued a certificate in relation to the person to the effect that:
 - (i) the person made a contribution to, and cooperated closely with, the prosecution of a person who was alleged to have trafficked a person or who was alleged to have forced a person into exploitative conditions (whether or not the person was convicted); or
 - (ii) the person made a contribution to, and cooperated closely with, an investigation in relation to which the Director of Public Prosecutions has decided not to prosecute a person who was alleged to have trafficked a person or who was alleged to have forced a person into exploitative conditions; and
 - (d) the Attorney-General's certificate is in force; and
 - (e) the person is not the subject of a prosecution for an offence that is directly connected to the prosecution mentioned in the Attorney-General's certificate; and
 - (f) the Minister is satisfied that the person would be in danger if he or she returned to his or her home country; and
 - (g) an offer of stay in Australia is made to the person by an authorised officer; and
 - (h) the person indicates in writing that he or she accepts the offer, not later than:
 - (i) 28 days after the person is taken to have received the offer; or
 - (ii) a later date determined by an authorised officer.

Note See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

- (4) The requirements of this subregulation are met for a person (the **first person**) if:
- (a) a person (the **second person**) is taken to have validly made an application for a visa of a class mentioned in

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- subregulation (1) in accordance with subregulation (3);
and
- (b) the second person identifies the first person as being a member of the immediate family of the second person in the second person's written acceptance under paragraph (3) (h).
- (5) For subregulation (4), the first person may be in or outside Australia.

2.07AL Applications for certain visas by contributory parent newborn children

- (1) For section 46 of the Act, an application by a contributory parent newborn child for a Subclass 173 (Contributory Parent (Temporary)) visa is a valid application only if the parent holds or held:
 - (a) a Subclass 173 (Contributory Parent (Temporary)) visa; or
 - (b) a bridging visa, and the last substantive visa held by that parent was a Subclass 173 (Contributory Parent (Temporary)) visa.
- (2) For section 46 of the Act, an application by a contributory parent newborn child for a Subclass 884 (Contributory Aged Parent (Temporary)) visa is a valid application only if the parent holds or held:
 - (a) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
 - (b) a bridging visa, and the last substantive visa held by that parent was a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

2.07AM Applications for Refugee and Humanitarian (Class XB) visas

An application made under paragraph 1402 (3) (a) of Schedule 1 is taken to have been made outside Australia.

2.07AO Applications for certain substantive visas by specified persons

- (1) For subsection 46 (2) of the Act, an application by a person mentioned in subregulation (2) for a visa of a kind mentioned in subregulation (3) is a valid application.

Note Further provisions about applications and criteria for the visas are set out in Division 2.2AA.

- (2) The person is a person:
- (a) who, on the day on which this regulation commences, is in Australia and holds, or has held:
 - (i) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or
 - (ii) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or
 - (iii) a Subclass 785 (Temporary Protection) visa; and
 - (b) whose visa mentioned in paragraph (a) has not been cancelled; and
 - (c) who has not left Australia between first holding the visa mentioned in paragraph (a) and the time of first applying for a visa mentioned in subregulation (3); and
 - (d) to whom the Minister has not refused to grant a Protection (Class XA) visa on the grounds set out in section 501 of the Act; and
 - (e) who, at the time of first making an application for a visa of a kind mentioned in subregulation (3), holds:
 - (i) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or
 - (ii) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or
 - (iii) a Subclass 785 (Temporary Protection) visa; or
 - (iv) a Return Pending (Temporary) (Class VA) visa; and
 - (f) who:
 - (i) has not been refused a visa; and
 - (ii) has not had a visa cancelled;on grounds relying on 1 or more of Articles 1F, 32 or 33 (2) of the Refugees Convention.

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- (3) The visas are:
- (a) a Subclass 415 (Foreign Government Agency) visa; and
 - (b) a Subclass 418 (Educational) visa; and
 - (c) a Subclass 419 (Visiting Academic) visa; and
 - (d) a Subclass 420 (Entertainment) visa; and
 - (e) a Subclass 421 (Sport) visa; and
 - (f) a Subclass 422 (Medical Practitioner) visa; and
 - (g) a Subclass 423 (Media and Film Staff) visa; and
 - (i) a Subclass 427 (Domestic Worker (Temporary) — Executive) visa; and
 - (j) a Subclass 428 (Religious Worker) visa; and
 - (k) a Subclass 442 (Occupational Trainee) visa; and
 - (l) a Subclass 445 (Dependent Child) visa; and
 - (m) a Subclass 457 (Business (Long Stay)) visa; and
 - (n) a Subclass 571 (Schools Sector) visa; and
 - (o) a Subclass 572 (Vocational Education and Training Sector) visa; and
 - (p) a Subclass 573 (Higher Education Sector) visa; and
 - (q) a Subclass 574 (Postgraduate Research Sector) visa; and
 - (r) a Subclass 580 (Student Guardian) visa; and
 - (ra) a Subclass 676 (Tourist) visa; and
 - (s) a Subclass 685 (Medical Treatment (Long Stay)) visa; and
 - (t) a Subclass 686 (Tourist (Long Stay)) visa; and
 - (u) a Subclass 801 (Partner) visa; and
 - (v) a Subclass 802 (Child) visa; and
 - (w) a Subclass 804 (Aged Parent) visa; and
 - (y) a Subclass 820 (Partner) visa; and
 - (za) a Subclass 837 (Orphan Relative) visa; and
 - (zb) a Subclass 838 (Aged Dependant Relative) visa; and
 - (zc) a Subclass 855 (Labour Agreement) visa; and
 - (zd) a Subclass 856 (Employer Nomination Scheme) visa; and
 - (ze) a Subclass 857 (Regional Sponsored Migration Scheme) visa; and
 - (zf) a Subclass 858 (Distinguished Talent) visa; and

- (zg) a Subclass 864 (Contributory Aged Parent) visa; and
- (zh) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
- (zi) a Subclass 890 (Business Owner) visa; and
- (zj) a Subclass 892 (State/Territory Sponsored Business Owner) visa.

2.07AP Applications for Maritime Crew (Temporary) (Class ZM) visas

Despite anything in regulation 2.07, an application for a Maritime Crew (Temporary) (Class ZM) visa may be made on behalf of an applicant.

Example

For convenience, an application for a Maritime Crew (Temporary) (Class ZM) visa could be completed and lodged by a third party such as a shipping agent or a manning agent, on behalf of a member of crew of a non-military ship or the spouse, de facto partner or dependent child of a member of the crew.

2.07AQ Applications for Resolution of Status (Class CD) visas

- (1) For subsection 46 (2) of the Act, a Resolution of Status (Class CD) visa is a prescribed class of visa.
- (2) An application for a Resolution of Status (Class CD) visa is taken to have been validly made by a person only if the requirements of subregulation (3) or item 1127AA of Schedule 1 have been met.
- (3) The requirements of this subregulation are met for a person if the criteria set out in at least 1 of the items of the table are satisfied.

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Item	Criterion 1	Criterion 2	Criterion 3	Criterion 4
1	The person makes a valid application for a Protection (Class XA) visa	The person holds: <ul style="list-style-type: none"> (a) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or (b) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or (c) a Subclass 695 (Return Pending) visa; or (d) a Subclass 785 (Temporary Protection) visa 	Nil	Nil
2	The person makes a valid application for a Protection (Class XA) visa	The person held, but no longer holds, a visa of a kind mentioned in criterion 2 of item 1, and the visa was not cancelled	The person: <ul style="list-style-type: none"> (a) has not left Australia; or (b) while holding a visa that permits re-entry to Australia, has left and re-entered Australia 	The person does not hold a permanent visa

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Item	Criterion 1	Criterion 2	Criterion 3	Criterion 4
3	The person holds: (a) a Temporary Safe Haven (Class UJ) visa; or (b) a Temporary (Humanitarian Concern) (Class UO) visa	An offer of a permanent stay in Australia is made to the person by the Australian Government	The person indicates to an authorised officer that he or she accepts the offer of a permanent stay in Australia	The authorised officer endorses, in writing, the person's acceptance of the offer
4	The person is a member of the family unit of a person who is taken to have made a valid application as a result of satisfying the criteria in item 3	An offer of a permanent stay in Australia is made to the person by the Australian Government	The person indicates to an authorised officer that he or she accepts the offer of a permanent stay in Australia	The authorised officer endorses, in writing, the person's acceptance of the offer

(4) If:

- (a) the application for the Resolution of Status (Class CD) visa is taken to have been validly made because the criteria in item 1 or 2 of the table in subregulation (3) have been satisfied; and
- (b) the application for the Protection (Class XA) visa mentioned in the item was made before 9 August 2008; the application is taken to have been made on 9 August 2008.

(5) If:

- (a) the application for the Resolution of Status (Class CD) visa is taken to have been validly made because the criteria in item 1 or 2 of the table in subregulation (3) have been satisfied; and
- (b) the application for the Protection (Class XA) visa mentioned in the item is made on or after 9 August 2008; the application is taken to have been made when the application for the Protection (Class XA) visa is made.

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- (6) If the application for the Resolution of Status (Class CD) visa is taken to have been validly made because the criteria in item 3 or 4 of the table in subregulation (3) have been satisfied, the application is taken to have been made when the authorised officer endorses the person's acceptance of the offer as described in the item.
- (7) Subregulation (2) applies whether or not the applicant holds, or held, a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa, a Subclass 451 (Secondary Movement Relocation (Temporary)) visa, a Subclass 695 (Return Pending) visa or a Subclass 785 (Temporary Protection) visa that is, or was, subject to a condition mentioned in paragraph 41 (2) (a) of the Act relating to the making of applications for other visas.

2.07AR Applications for Superyacht Crew (Temporary) (Class UW) visas

Despite anything in regulation 2.07, an application for a Superyacht Crew (Temporary) (Class UW) visa may be made on behalf of an applicant.

2.08 Application by newborn child

- (1) If:
 - (a) a non-citizen applies for a visa; and
 - (b) after the application is made, but before it is decided, a child, other than a contributory parent newborn child, is born to the non-citizen;then:
 - (c) the child is taken to have applied for a visa of the same class at the time he or she was born; and
 - (d) the child's application is taken to be combined with the non-citizen's application.
- (2) Despite any provision in Schedule 2, a child referred to in subregulation (1):
 - (a) must satisfy the criteria to be satisfied at the time of decision; and

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- (b) at the time of decision must satisfy a criterion (if any) applicable at the time of application that an applicant must be sponsored, nominated or proposed.

Note Regulations 2.07AL and 2.08AA apply in relation to an application by a contributory parent newborn child.

2.08AA Application by contributory parent newborn child

- (1) Despite any provision in Schedule 2, a contributory parent newborn child who applies for a Contributory Parent (Temporary) (Class UT) visa or a Contributory Aged Parent (Temporary) (Class UU) visa:
- (a) does not have to satisfy the secondary criteria in Schedule 2 that would, but for this subregulation, need to be satisfied at the time of application; and
 - (b) must satisfy the applicable secondary criteria to be satisfied at the time of decision.
- (2) Despite any provision in Schedule 1, a contributory parent newborn child:
- (a) who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa or a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (b) whose parent has applied for a Contributory Parent (Migrant) (Class CA) visa or a Contributory Aged Parent (Residence) (Class DG) visa, and either:
 - (i) that application has not been finally determined; or
 - (ii) the parent has been granted the permanent visa;is taken to have made a combined application for the permanent visa, mentioned in paragraph (b), with the parent.
- (3) For subregulation (2), the contributory parent newborn child is taken to have made the application:
- (a) if the child was in Australia when the temporary visa was granted — on the grant of the temporary visa to the child; or
 - (b) if the child was outside Australia when the temporary visa was granted — immediately after the child is immigration cleared.

Regulation 2.08AB

2.08AB Application for visa — prescribed circumstances

For paragraph 46 (2A) (a) of the Act, the circumstance is that the application is for a visa that is not:

- (a) a bridging visa; or
- (b) a Witness Protection (Trafficking) (Permanent) (Class DH) visa.

Note Section 46 of the Act sets out the conditions for a valid visa application. Subsection 46 (2A) provides that a visa application is invalid in prescribed circumstances, if the other conditions mentioned in that subsection also apply.

2.08AC Application for visa — personal identifiers

For subsection 46 (2C) of the Act:

- (a) the circumstance is that the application is for a visa that is not:
 - (i) a bridging visa; or
 - (ii) a Witness Protection (Trafficking) (Permanent) (Class DH) visa; and
- (b) a personal identifier is one of the following types:
 - (i) a photograph or other image of the applicant's face and shoulders;
 - (ii) the applicant's signature.

Note Section 46 of the Act sets out the conditions for a valid visa application. 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)), if the applicant complies with any requirements that are prescribed relating to the provision of the personal identifier.

2.08A Addition of certain applicants to certain applications for permanent visas

- (1) If:
 - (a) a person (in this regulation called *the original applicant*) applies for a permanent visa of a class for which Schedule 1 permits combined applications; and

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- (b) after the application is made, but before it is decided, the Minister receives, in writing and in accordance with Division 2.3, a request from the original applicant to have:
 - (i) the spouse or de facto partner; or
 - (ii) a dependent child;of the original applicant (the *additional applicant*) added to the original applicant's application; and
 - (c) the request includes a statement that the original applicant claims that the additional applicant is:
 - (i) the spouse or de facto partner; or
 - (ii) a dependent child;as the case requires, of the original applicant; and
 - (d) at the time when the Minister receives the request, the additional applicant satisfies the provisions of Schedule 1 that relate to the whereabouts of an applicant at the time of application and apply to a visa of the same class;
then:
 - (e) the additional applicant is taken to have applied for a visa of the same class; and
 - (f) the application of the additional applicant:
 - (i) is taken to have been made at the time when the Minister receives the request; and
 - (ii) is taken to be combined with the application of the original applicant; and
 - (iii) is taken to have been made at the same place as, and on the same form as, the application of the original applicant.
- (2) Despite any provision in Schedule 2, the additional applicant:
- (a) must be, at the time when the application is taken to be made under subparagraph (1) (f) (i), a person who satisfies the applicable secondary criteria to be satisfied at the time of application; and
 - (b) must satisfy the applicable secondary criteria to be satisfied at the time of decision.

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- (2A) Subregulations (1) and (2) do not apply to an applicant for:
- (b) a Skilled — Independent Overseas Student (Residence) (Class DD) visa; or
 - (c) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa; or
 - (d) a Contributory Parent (Migrant) (Class CA) visa, being an applicant who holds a Subclass 173 (Contributory Parent (Temporary)) visa at the time of the application; or
 - (e) a Contributory Aged Parent (Residence) (Class DG) visa, being an applicant who holds a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application; or
 - (f) a Skilled (Residence) (Class VB) visa.

Note Regulations 2.07AL and 2.08AA apply in relation to an application by a contributory parent newborn child.

2.08B Addition of certain dependent children to certain applications for temporary visas

- (1) If:
- (a) a person (*the original applicant*) applies for:
 - (i) an Extended Eligibility (Temporary) (Class TK) visa; or
 - (ii) an Interdependency (Provisional) (Class UG) visa; or
 - (iii) a Prospective Marriage (Temporary) (Class TO) visa; or
 - (iv) a Resolution of Status (Temporary) (Class UH) visa; or
 - (v) a Spouse (Provisional) (Class UF) visa; or
 - (vi) a Partner (Provisional) (Class UF) visa; or
 - (vii) a Partner (Temporary) (Class UK) visa; or
 - (viii) a Business Skills (Provisional) (Class UR) visa; or
 - (ix) a Skilled — Independent Regional (Provisional) (Class UX) visa; or

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- (x) a Skilled (Provisional) (Class VC) visa; or
 - (xi) a Skilled (Provisional) (Class VF) visa; or
 - (xii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; and
- (b) the Minister receives, in writing and in accordance with Division 2.3, a request from the original applicant to have a dependent child of the original applicant added to the original applicant's application; and
- (ba) the request is received:
- (i) for a request in relation to an application other than an application for a Resolution of Status (Temporary) (Class UH) visa — after the application is made but before it is decided; or
 - (ii) for a request in relation to an application for a Resolution of Status (Temporary) (Class UH) visa:
 - (A) after the application is made but before it is decided; or
 - (B) after a decision to grant the visa is made; and
- (c) the request includes a statement that the original applicant claims that the dependent child is the dependent child of the original applicant; and
- (d) at the time when the Minister receives the request, the dependent child satisfies the provisions of Schedule 1 that relate to the whereabouts of an applicant at the time of application and apply to a visa of the same class; and
- (da) where the visa applied for by the original applicant is a Resolution of Status (Temporary) (Class UH) visa, the Minister is satisfied that compelling and compassionate circumstances exist for the dependent child to be added to the applicant's application;
- then:
- (e) the dependent child is taken to have applied for a visa of the same class; and
 - (f) the application of the dependent child:
 - (i) is taken to have been made at the time when the Minister receives the request; and

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- (ii) is taken to be combined with the application of the original applicant; and
 - (iii) is taken to have been made at the same place as, and on the same form as, the application of the original applicant.
- (2) Despite any provision in Schedule 2, the dependent child:
- (a) must be, at the time when the application is taken to be made under subparagraph (1) (f) (i), a person who satisfies the applicable secondary criteria to be satisfied at the time of application; and
 - (b) must satisfy the applicable secondary criteria to be satisfied at the time of decision.

2.08BA Certain holders of Subclass 450 visas taken to have applied for Resolution of Status (Residence) (Class BL) visas

Despite any provision in Schedule 1, a person who is the holder of a Subclass 450 (Resolution of Status — Family Member (Temporary)) visa is taken to have made a valid application for a Resolution of Status (Residence) (Class BL) visa immediately after the person is immigration cleared in relation to the person's first entry into Australia as the holder of a Subclass 450 visa.

2.08C Certain applicants taken to have applied also for Employer Nomination (Migrant) (Class AN) visas and Labour Agreement (Migrant) (Class AU) visas

- (1) This regulation applies to a person (the *applicant*):
- (a) who has applied for:
 - (i) an Independent (Migrant) (Class AT) visa; or
 - (ii) a Skilled — Independent (Migrant) (Class BN) visa; or
 - (iii) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa; or
 - (iv) a Skill Matching (Migrant) (Class BR) visa; and
 - (b) for whom the requirements mentioned in subregulation (2) are met.

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- (2) The requirements are that:
- (a) the applicant was less than 45 years old at the time of the application for the Class AT, BN, BQ or BR visa; and
 - (b) a decision to grant, or refuse to grant, to the applicant a Subclass 126 (Independent), Subclass 134 (Skill Matching), Subclass 136 (Skilled — Independent) or Subclass 138 (Skilled — Australian-sponsored) visa has not been made; and
 - (c) for an applicant for a Class AT or BN visa — the applicant:
 - (i) has been assessed in relation to a Subclass 126 (Independent) or Subclass 136 (Skilled — Independent) visa under Subdivision B of Division 3 of Part 2 of the Act; and
 - (ii) was given an assessed score that was at least the applicable pool mark at the time the score was assessed; and
 - (d) the applicant:
 - (i) for a Class AT visa:
 - (A) has functional English; and
 - (B) has a diploma (within the meaning of subregulation 2.26 (5)) or higher qualification; and
 - (ii) for a Class BN visa:
 - (A) has vocational English; and
 - (B) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification; and
 - (iii) for a Class BQ visa:
 - (A) has vocational English; and
 - (B) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification; and
 - (iv) for a Class BR visa:
 - (A) has functional English; and

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- (B) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification.
- (3) Subregulation (4) applies to an applicant who has been nominated by an employer for an appointment in the business of the employer, if the appointment is an approved appointment in accordance with subregulation 5.19 (2) or (4).
- (4) The applicant is taken also to have applied for an Employer Nomination (Migrant) (Class AN) visa on the day when Immigration receives the employer nomination.
- (5) If subregulation (4) applies to an applicant for a Class AT, BN, BQ or BR visa:
- (a) the applicant's application for an Employer Nomination (Migrant) (Class AN) visa is taken to have been made outside Australia; and
 - (b) any other person included in the applicant's application for a Class AT, BN, BQ or BR visa is taken also to be included in the applicant's application for an Employer Nomination (Migrant) (Class AN) visa.
- (6) Subregulation (7) applies to an applicant who seeks to enter Australia in accordance with a labour agreement, an RHQ agreement or an IASS agreement, if Immigration has received evidence of the applicant's appointment by an employer authorised under the labour agreement, RHQ agreement or IASS agreement to recruit persons.
- (7) The applicant is taken also to have applied for a Labour Agreement (Migrant) (Class AU) visa on the day when Immigration receives the evidence mentioned in subregulation (6).
- (8) If subregulation (7) applies to an applicant for a Class AT, BN, BQ or BR visa:
- (a) the applicant's application for an Labour Agreement (Migrant) (Class AU) visa is taken to have been made outside Australia; and

- (b) any other person included in the applicant's application for a Class AT, BN, BQ or BR visa is taken also to be included in the applicant's application for an Labour Agreement (Migrant) (Class AU) visa.

2.08CA Certain applicants for Skilled — New Zealand Citizen (Residence) (Class DB) visas taken to have applied also for Employer Nomination (Residence) (Class BW) visas

- (1) An applicant for a Skilled — New Zealand Citizen (Residence) (Class DB) visa, who has been nominated by an employer in respect of an appointment in the business of that employer but is not sponsored by a person, is taken also to have applied for an Employer Nomination (Residence) (Class BW) visa on the day when Immigration receives the employer nomination, if each of the following requirements is satisfied as at that date:
 - (a) the applicant was less than 45 years of age at the time of the application for the Class DB visa;
 - (b) a decision to grant, or refuse to grant, to the applicant a Subclass 861 (Skilled — Onshore Independent New Zealand Citizen) visa has not been made;
 - (c) the applicant:
 - (i) has been assessed in relation to a Subclass 861 visa under Subdivision B of Division 3 of Part 2 of the Act; and
 - (ii) was given an assessed score that is more than or equal to the applicable pool mark at the time when the score was assessed;
 - (d) the appointment for which the applicant has been nominated is an approved appointment for regulation 5.19 on the basis that the nomination meets the requirements of subregulation (4) of that regulation;
 - (e) the applicant:
 - (i) has vocational English; and
 - (ii) has a diploma (within the meaning of subregulation 2.26A (6)) or a higher qualification.

Regulation 2.08CB

- (2) If subregulation (1) applies to an applicant for a Class DB visa, any other person included in the applicant's application is taken also to be included in the applicant's application for an Employer Nomination (Residence) (Class BW) visa.

2.08CB Certain applicants taken to have applied also for Employer Nomination (Residence) (Class BW) visas

- (1) This regulation applies to a person (the *applicant*) who:
- (a) either:
- (i) has applied for a Skilled — Independent Overseas Student (Residence) (Class DD) visa; or
- (ii) both:
- (A) has applied for a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa; and
- (B) seeks to satisfy the primary criteria for the grant of a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa; and
- (b) has been nominated by an employer in respect of an appointment in the business of that employer that is an approved appointment for regulation 5.19 on the basis that the nomination meets the requirements of subregulation 5.19 (4).
- (2) An applicant is taken also to have applied for an Employer Nomination (Residence) (Class BW) visa on the day on which the appointment mentioned in paragraph (1) (b) is approved, if each of the following requirements is satisfied as at that day:
- (a) the applicant was less than 45 at the time of the application for the Class DD or Class DE visa;
- (b) a decision to grant, or refuse to grant, to the applicant a Subclass 880 (Skilled — Independent Overseas Student) visa or a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa has not been made;

- (c) the applicant:
 - (i) has vocational English; and
 - (ii) has a diploma (within the meaning of subregulation 2.26A (6)) or a higher qualification.
- (3) If subregulation (2) applies to an applicant for a Class DD or Class DE visa, any other person included in the applicant's application is taken also to be included in the applicant's application for an Employer Nomination (Residence) (Class BW) visa.

2.08CC Certain applicants taken to have applied also for Labour Agreement (Residence) (Class BV) visas

- (1) This regulation applies to a person (the *applicant*) who:
 - (a) either:
 - (i) has applied for a Skilled — Independent Overseas Student (Residence) (Class DD) visa; or
 - (ii) both:
 - (A) has applied for a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa; and
 - (B) seeks to satisfy the primary criteria for the grant of a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa; and
 - (b) seeks to enter Australia in accordance with a labour agreement, an RHQ agreement or an IASS agreement.
- (2) An applicant to whom this regulation applies is taken also to have applied for a Labour Agreement (Residence) (Class BV) visa on the day on which Immigration receives evidence of the applicant's appointment by an employer authorised under the labour agreement, RHQ agreement or IASS agreement to recruit persons, if each of the following requirements is satisfied as at that date:
 - (a) the applicant was less than 45 at the time of the application for the Class DD or Class DE visa;

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- (b) a decision to grant, or refuse to grant, to the applicant a Subclass 880 (Skilled — Independent Overseas Student) visa or a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa has not been made;
- (c) the applicant:
 - (i) has vocational English; and
 - (ii) has a diploma (within the meaning of subregulation 2.26A (6)) or a higher qualification.
- (3) If subregulation (2) applies to an applicant for a Class DD or Class DE visa, any other person included in the applicant's application is taken also to be included in the applicant's application for a Labour Agreement (Residence) (Class BV) visa.

2.08D Certain applicants for Independent (Migrant) (Class AT) or Skilled – Australian-linked (Migrant) (Class AJ) visas may make further application

- (1) This regulation applies to a person if:
 - (a) the person applied for an Independent (Migrant) (Class AT) visa or a Skilled – Australian-linked (Migrant) (Class AJ) visa; and
 - (b) on or after 1 July 1999, the Minister made an assessment under subsection 93 (1) of the Act in relation to that application; and
 - (c) the Minister has refused to grant the visa, or the application was taken to be put into a pool under paragraph 94 (3) (b) of the Act; and
 - (d) the Minister is satisfied, from information available to the Minister, that, if the person had applied for:
 - (i) a Skilled — Independent (Migrant) (Class BN) visa; or
 - (ii) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa; or
 - (iii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa;it is likely that the visa would have been granted.

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- (2) The Minister may invite the person to make an application (a *further application*) for:
- (a) a Skilled — Independent (Migrant) (Class BN) visa; or
 - (b) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa; or
 - (c) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

- (3) If the person is invited to make a further application, and wishes to make the application, the application must be made not later than 12 months after the day on which the invitation is received.

2.08DA Certain applicants for Skilled — Independent (Migrant) (Class BN) visas may make further application

- (1) This regulation applies to a person if:
- (a) the person applied for a Skilled — Independent (Migrant) (Class BN) visa; and
 - (b) the Minister made an assessment under subsection 93 (1) of the Act for that application; and
 - (c) the person was given an assessed score that is more than or equal to the applicable pool mark at the time when the score was assessed; and
 - (d) the Minister is satisfied that, on the basis of information available to the Minister, if the person had applied for a Skilled — Independent Regional (Provisional) (Class UX) visa, it is likely that the visa would have been granted.
- (2) The Minister may, in writing, invite the person to make an application (a *further application*) for a Skilled — Independent Regional (Provisional) (Class UX) visa.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act for the method.

Regulation 2.08E

- (3) If the person is invited to make a further application, and wishes to make the application in response to the invitation, the application must be made not later than 6 months after the day when the invitation is received.

Note If the person does not make an application, in response to the invitation, within the 6 months, the person may still make an application for the visa. However, making an application within the 6 months has an effect on the amount of the visa application charge payable by the person.

2.08E Certain applicants taken to have applied for Partner (Migrant) (Class BC) visas and Partner (Provisional) (Class UF) visas

- (1) For subsection 46 (2) of the Act, the Partner (Migrant) (Class BC) visa and the Partner (Provisional) (Class UF) visa are prescribed classes of visa.
- (2) If:
- (a) a person (the **applicant**) applies for a Prospective Marriage (Temporary) (Class TO) visa; and
 - (b) after the application is made, but before it is decided, the applicant marries the person who was specified as the applicant's prospective spouse in the application for that visa; and
 - (c) the marriage is recognised as valid for the purposes of the Act;
- then:
- (d) the applicant is taken also to have applied for a Partner (Migrant) (Class BC) visa and a Partner (Provisional) (Class UF) visa on the day Immigration receives notice of the marriage; and
 - (e) the applications are taken to be validly made.
- (2A) Subregulation (2B) applies if:
- (a) a person (the **applicant**) applies for a Prospective Marriage (Temporary) (Class TO) visa (the **visa application**); and
 - (b) the Minister refuses to grant the visa; and
 - (c) the applicant or the sponsor of the applicant makes an application for review of the Minister's decision to the Migration Review Tribunal (the **review application**); and

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- (d) the review application is made in accordance with the Act; and
 - (e) in the period after the Minister's decision is made and before the review application is finally determined, the applicant marries the person who was specified, in the application for the visa, as the applicant's prospective spouse; and
 - (f) the applicant notifies the Migration Review Tribunal of the marriage; and
 - (g) the marriage is recognised as valid for the purposes of the Act.
- (2B) For paragraph 349 (2) (c) of the Act, the Migration Review Tribunal must remit the visa application to the Minister for reconsideration, with the direction that the application be taken also to be an application:
- (a) for:
 - (i) a Partner (Migrant) (Class BC) visa; and
 - (ii) for a Partner (Provisional) (Class UF) visa; and
 - (b) that is made on the day that the visa application is remitted to the Minister.
- (3) The amount paid by the applicant as the first instalment of the visa application charge for the Prospective Marriage (Temporary) (Class TO) visa application is taken to be payment of the first instalment of the visa application charge for the Partner (Migrant) (Class BC) visa application.

2.08G Certain persons taken to have applied for Partner (Migrant) (Class BC) visas

- (1) This regulation applies if:
 - (a) a person held, before 9 December 2002:
 - (i) a Subclass 309 (Spouse (Provisional)) visa; or
 - (ii) a Subclass 310 (Interdependency (Provisional)) visa;which the Minister decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the person; and

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- (b) the person lodged form 47SP in Australia, after the Minister's decision mentioned in paragraph (a) and before 9 December 2002; and
 - (c) the first instalment of the visa application charge in relation to the lodgment of the form was paid before 9 December 2002.
- (2) On and after 9 December 2002, the lodgment of the form is taken to be a valid application by the person for a Partner (Migrant) (Class BC) visa.
- (3) This regulation applies in addition to regulation 2.08E.

2.09 Oral applications for visas

- (1) Subject to subregulation (2), if an item in Schedule 1 authorises oral application for a class of visa by a person in a specified class of persons, a person in that class may apply for a visa of that class by telephone to, or attendance at, an office of Immigration in Australia specified by Gazette Notice as an office at which an oral application may be made, but only at a time, or during a period, specified by Gazette Notice as a time at which, or period during which, an oral application may be made at that office.
- (2) An oral application for a Return (Residence) (Class BB) visa may be made:
- (a) at an office of Immigration in Australia (whether specified by Gazette Notice for the purposes of subregulation (1) or not); and
 - (b) only by attendance at that office.

2.10 Where application must be made

- (1) For section 46 of the Act, an application for a visa (not being an Internet application) must be made in accordance with this regulation.
- (2) If an application for a visa is made outside Australia, the application must be made:
- (a) in accordance with any requirements in:
 - (i) this Division; or

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- (ii) the item in Schedule 1 that relates to the visa;
about where to make the application; or
- (b) if there are no requirements of that kind — at a diplomatic,
consular or migration office maintained by or on behalf of
the Commonwealth outside Australia.

Note 1 Schedule 1 explains whether applications for particular visas may be made in Australia, outside Australia, or in or outside Australia.

Note 2 A provision in this Division or in Schedule 1 may also state that an application is taken to have been made at a particular place if specified requirements are met.

- (2A) If an application for a visa is made in Australia, the application must be made:
 - (a) in accordance with any requirements in:
 - (i) this Division; or
 - (ii) the item in Schedule 1 that relates to the visa;
about where to make the application; or
 - (b) if there are no requirements of that kind — at an office of Immigration in Australia.

Note 1 Schedule 1 explains whether applications for particular visas may be made in Australia, outside Australia, or in or outside Australia.

Note 2 A provision in this Division or in Schedule 1 may also state that an application is taken to have been made at a particular place if specified requirements are met.

- (3) An unlawful non-citizen who is located by an officer of Immigration may apply for a bridging visa directly to that officer.
- (4) For Division 2.2 (not including regulation 2.09) and Schedule 1, an office occupied by an officer of Immigration at an airport or a detention centre is an office of Immigration.

Note Requirements about where the applicant must be when making an Internet application are in Schedule 1.

2.10AA Where application must be made for certain gazetted visas

- (1) This regulation applies to:
 - (a) a person who is:

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- (i) outside Australia; and
 - (ii) a citizen of, or residing in, a foreign country specified by Gazette Notice for the purposes of this subparagraph; and
 - (iii) in that foreign country; and
 - (b) an application (other than an Internet application) made by the person for a visa that is specified by Gazette Notice for the purposes of this paragraph.
- (2) The application must be made by:
- (a) posting the application (with the correct pre-paid postage) to a post office box address specified for the visa by Gazette Notice for the purposes of this paragraph; or
 - (b) having the application delivered by a courier service to an address specified for the visa by Gazette Notice for the purposes of this paragraph.
- (3) The application is taken to have been made outside Australia.

2.10A Notice of lodgment of application — person in immigration detention (Bridging E (Class WE) visa)

- (1) This regulation applies in the case of an application for a Bridging E (Class WE) visa that is made by a person who is in immigration detention (*the applicant*).
- (2) The person lodging the application (whether or not the person is the applicant) must give written notice of the application to an officer of Immigration appointed by the Secretary to be a detention review officer in the State or Territory in which the applicant is detained.

2.10B Notice of lodgment of application — person in immigration detention (Bridging F (Class WF) visa)

- (1) This regulation applies in the case of an application for a Bridging F (Class WF) visa that is made by a person who is in immigration detention (*the applicant*).

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- (2) The person lodging the application (whether or not the person is the applicant) must give written notice of the application to an officer of Immigration appointed by the Secretary to be an authorised officer for this regulation.

2.10C Time of making Internet application

For these Regulations, an Internet application is taken to have been made:

- (a) if Australian Eastern Standard Time is in effect in Australia — at the time, identified using Australian Eastern Standard Time, that corresponds to the time at which the Internet application is made; or
- (b) if Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory is in effect in Australia — at the time, identified using Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made.

2.11 Special provisions for certain visa applications that are refused

- (1) If:
- (a) any of the following applications for a visa (a *first application*) has been made:
- (i) an application for a visa by a non-citizen made outside Australia;
- (ii) an application for any of the following visas made by a non-citizen in Australia:
- (A) a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
- (B) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
- (C) a Skilled — Independent Regional (Provisional) (Class UX) visa;
- (D) a Skilled — Independent (Migrant) (Class BN) visa;

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- (E) a Skill Matching (Migrant) (Class BR) visa;
 - (F) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (G) a Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
- (b) the first application has been refused; and
 - (c) it appears to the Minister, on the basis of the information available to the Minister, that, if the non-citizen had applied for a visa of a different class, the visa would be likely to have been granted;

the Minister may invite the non-citizen to make an application (a ***further application***) for a visa of the different class.

- (2) An invitation made under subregulation (1) is to be an invitation:
 - (a) if subparagraph (a) (i) applies, and the first application was for a permanent visa — to make an application for a permanent visa; or
 - (b) if subparagraph (a) (i) applies, and the first application was for a temporary visa — to make an application for a temporary visa; or
 - (c) if subparagraph (a) (ii) applies — to make an application for a visa of a class mentioned in that subparagraph.
- (2A) However:
 - (a) if the first application was for a Prospective Marriage (Temporary) (Class TO) visa, the Minister may invite the applicant to make a further application for both:
 - (i) a Spouse (Provisional) (Class UF) visa or a Partner (Provisional) (Class UF) visa; and
 - (ii) a Spouse (Migrant) (Class BC) visa or a Partner (Migrant) (Class BC) visa; and
 - (b) if the first application was for both:
 - (i) a Spouse (Provisional) (Class UF) visa or a Partner (Provisional) (Class UF) visa; and
 - (ii) a Spouse (Migrant) (Class BC) visa or a Partner (Migrant) (Class BC) visa;

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the Minister may invite the applicant to make a further application for a Prospective Marriage (Temporary) (Class TO) visa; and

- (c) if the first application was for a Return (Residence) (Class BB) visa, the Minister may invite the applicant to make a further application for a Resident Return (Temporary) (Class TP) visa.
- (3) A review authority is not to invite a further application under subregulation (1).
 - (4) The non-citizen must make the further application within 28 days (or, if the Minister in the circumstances of the case so decides, 70 days) after the day on which the non-citizen is notified of the invitation to make that application.
 - (5) The actual amount that is payable by the applicant by way of the visa application charge in relation to the further application is the amount (if any) by which liability for the visa application charge in relation to the further application exceeds the actual amount of the visa application charge paid on the first application.
 - (6) If the first instalment of the visa application charge payable in relation to the further application is less than the actual amount paid in relation to the first application, no refund is payable in respect of the difference.

2.12 Certain non-citizens whose applications refused in Australia (Act, s 48)

- (1) For section 48 of the Act the following classes of visas are prescribed:
 - (c) Protection (Class XA);
 - (ca) subject to subregulation (3), Medical Treatment (Visitor) (Class UB);
 - (e) Territorial Asylum (Residence) (Class BE);
 - (f) Border (Temporary) (Class TA);
 - (g) Special Category (Temporary) (Class TY);
 - (h) Bridging A (Class WA);
 - (j) Bridging B (Class WB);

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- (k) Bridging C (Class WC);
- (l) Bridging D (Class WD);
- (m) Bridging E (Class WE);
- (ma) Bridging F (Class WF);
- (mb) Bridging R (Class WR);
- (n) Resolution of Status (Temporary) (Class UH);
- (o) Resolution of Status (Class CD);
- (p) Child (Residence) (Class BT).

Note Section 48 of the Act limits further applications by a person whose visa has been cancelled, or whose application for a visa has been refused.

- (3) Paragraph (1) (ca) applies to a person if and only if he or she meets the requirements of subclause 685.212 (6) or (7) of Schedule 2.
- (4) For section 48 of the Act the following classes of visas are prescribed if, and only if, the person has received an invitation under regulation 2.11 to apply for a visa of that class:
 - (a) a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (b) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (d) a Skilled — Independent (Migrant) (Class BN) visa;
 - (e) a Skill Matching (Migrant) (Class BR) visa;
 - (f) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (g) a Skilled — New Zealand Citizen (Residence) (Class DB) visa.

Note Section 48 of the Act limits further applications by a person whose visa has been cancelled, or whose application for a visa has been refused.

2.12AA Refusal or cancellation of visa — prohibition on applying for other visa (Act, s 501E)

For paragraph 501E (2) (b) of the Act, a Bridging R (Class WR) visa is specified.

**2.12A Safe third country and prescribed connection
(Act, s 91D)**

- (1) For paragraph 91D (1) (a) of the Act, PRC is a safe third country in relation to a person who entered Australia without lawful authority on or after 1 January 1996 and, as covered by the agreement between Australia and PRC, meets any of the following criteria:
 - (a) is a Vietnamese refugee settled in PRC;
 - (b) has been a Vietnamese refugee settled in PRC;
 - (c) is a close relative of a person mentioned in paragraph (a) or (b);
 - (d) is dependent on a person mentioned in paragraph (a) or (b).
- (2) For paragraph 91D (1) (b) of the Act, a person mentioned in subregulation (1) has a prescribed connection with PRC if, at any time before the person entered Australia:
 - (a) the person resided in PRC; or
 - (b) a parent of the person resided in PRC.
- (3) In this regulation:
 - (a) *agreement between Australia and PRC* means the agreement constituted by the Memorandum of Understanding, the English text of which is set out in Schedule 11, together with the exchange of letters between representatives of Australia and PRC dated 18 September 2008 and 7 October 2008, the text of which is set out in Schedule 12; and
 - (b) the use of the word *Vietnamese* is a reference to nationality or country of origin, and is not an ethnic description.

Note 1 **PRC** is defined in regulation 1.03.

Note 2 This regulation ceases to be in force at the end of 4 December 2010 — see subsection 91D (4) of the Act.

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Division 2.2AA Special provisions relating to persons designated under regulation 2.07AO

2.12BB Application of Division 2.2AA

This Division applies to:

- (a) an application made by a person designated under regulation 2.07AO for a visa of any of the subclasses mentioned in subregulation 2.07AO (3); or
- (b) an application made by a member of the family unit of a person designated under regulation 2.07AO, who applies in Australia for a visa of the same subclass as the visa applied for by the person designated under regulation 2.07AO on the basis of satisfying the secondary criteria for the grant of that visa; or
- (c) an application made by a member of the family unit of a person designated under regulation 2.07AO, who applies outside Australia for a visa of the same subclass as the visa applied for by the person designated under regulation 2.07AO on the basis of satisfying the secondary criteria for the grant of that visa; or
- (d) a person:
 - (i) who is not an applicant for a visa; and
 - (ii) who is a member of the family unit of a person designated under regulation 2.07AO; and
 - (iii) who is the subject of a criterion in Schedule 2 that applies to all members of the family unit of the person designated under regulation 2.07AO, whether or not those members are applicants for a visa.

2.12BC Place to which application for visa by person mentioned in paragraph 2.12BB (a), (b) or (c) is to be sent

Despite anything in regulation 2.10, or paragraphs 1113 (3) (aa), 1205 (3) (c) and 1211 (3) (ab) of Schedule 1, relating to the place at which an application for the visa is to be made, an application by a person mentioned in paragraph 2.12BB (a),

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(b) or (c) for a visa mentioned in subregulation 2.07AO (3) must be made by:

- (a) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this paragraph; or
- (b) having the application delivered by a courier service to the address specified in a Gazette Notice for this paragraph.

2.12BD Visas that may be held by person mentioned in paragraph 2.12BB (a) at time of application

Despite anything in Schedule 2 relating to the visas that an applicant for a visa mentioned in subregulation 2.07AO (3) is required to hold at the time of application, a person mentioned in paragraph 2.12BB (a) may meet the requirement by holding any of the following visas at the time of application for a visa mentioned in subregulation 2.07AO (3):

- (a) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa;
- (b) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa;
- (c) a Subclass 785 (Temporary Protection) visa;
- (d) a Subclass 695 (Return Pending) visa.

2.12BE Application of public interest criterion 4004 to person mentioned in regulation 2.12BB

Despite anything in Schedule 2 or 4 relating to whether a person is required to satisfy public interest criterion 4004, a person mentioned in regulation 2.12BB is not required to satisfy that criterion in relation to an application for a visa mentioned in subregulation 2.07AO (3).

2.12BF Application of public interest criterion 4007 to person mentioned in regulation 2.12BB

- (1) Subregulation (2) applies if a person mentioned in paragraph 2.12BB (a), (b) or (c) applies for a visa of any of the following subclasses:
 - (a) a Subclass 415 (Foreign Government Agency) visa;

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- (b) a Subclass 418 (Educational) visa;
 - (c) a Subclass 419 (Visiting Academic) visa;
 - (d) a Subclass 420 (Entertainment) visa;
 - (e) a Subclass 421 (Sport) visa;
 - (f) a Subclass 422 (Medical Practitioner) visa;
 - (g) a Subclass 423 (Media and Film Staff) visa;
 - (i) a Subclass 427 (Domestic Worker (Temporary) — Executive) visa;
 - (j) a Subclass 428 (Religious Worker) visa;
 - (k) a Subclass 442 (Occupational Trainee) visa;
 - (l) a Subclass 457 (Business (Long Stay)) visa;
 - (m) a Subclass 571 (Schools Sector) visa;
 - (n) a Subclass 572 (Vocational Education and Training Sector) visa;
 - (o) a Subclass 573 (Higher Education Sector) visa;
 - (p) a Subclass 574 (Postgraduate Research Sector) visa;
 - (q) a Subclass 580 (Student Guardian) visa;
 - (qa) a Subclass 676 (Tourist) visa;
 - (r) a Subclass 686 (Tourist (Long Stay)) visa;
 - (s) a Subclass 804 (Aged Parent) visa;
 - (t) a Subclass 837 (Orphan Relative) visa;
 - (u) a Subclass 838 (Aged Dependant Relative) visa;
 - (v) a Subclass 855 (Labour Agreement) visa;
 - (w) a Subclass 856 (Employer Nomination Scheme) visa;
 - (x) a Subclass 857 (Regional Sponsored Migration Scheme) visa;
 - (y) a Subclass 858 (Distinguished Talent) visa;
 - (z) a Subclass 864 (Contributory Aged Parent) visa;
 - (za) a Subclass 884 (Contributory Aged Parent (Temporary)) visa.
- (2) Despite anything in Schedule 2 or 4 relating to whether an applicant for a visa is required to satisfy public interest criterion 4005 or 4006A:
- (a) a person mentioned in paragraph 2.12BB (a), (b) or (c) must satisfy public interest criterion 4007, instead of

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- public interest criterion 4005, in relation to an application for a visa mentioned in subregulation (1); and
- (b) a person mentioned in paragraph 2.12BB (a), (b) or (c) must satisfy public interest criterion 4007, instead of public interest criterion 4006A, in relation to an application for a visa mentioned in subregulation (1).
- (3) Despite anything in Schedule 2 or 4 relating to whether a person who is the subject of a criterion in Schedule 2 that applies to all members of the family unit of a person designated under regulation 2.07AO, whether or not those members are applicants for a visa, is required to satisfy public interest criterion 4005 or 4006A:
- (a) the person who is the subject of the criterion must satisfy public interest criterion 4007, instead of public interest criterion 4005, in relation to the application for that visa; and
 - (b) the person who is the subject of the criterion must satisfy public interest criterion 4007, instead of public interest criterion 4006A, in relation to the application for that visa.

Division 2.2A Visa application charge

2.12C Amount of visa application charge (Act, section 45B)

The visa application charge (if any) in relation to an application for a visa of a class to which an item of Schedule 1 relates is the sum of:

- (a) the amount (if any) specified in subitem (2) of that item as the first instalment (which is payable when the application is made); and
- (b) the amount (if any) specified in that subitem as the second instalment (which is payable before the grant of the visa).

Note See regulation 5.36 in relation to the countries and currencies in which payment of an instalment of the visa application charge may be made.

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2.12D Prescribed period for payment of unpaid amount of visa application charge (Act, subsection 64 (2))

For the purposes of paragraphs 64 (2) (a) and (c) of the Act, the following periods are prescribed as the periods within which an applicant must pay the second instalment of the visa application charge:

- (a) if the notice given by the Minister under subsection 64 (2) is sent from a place in Australia to an address in Australia — the period beginning on the day on which the applicant is taken to have received notice and ending at the end of the 28th day after that day;
- (b) if the notice given by the Minister under subsection 64 (2) is sent from:
 - (i) a place outside Australia to an address in Australia; or
 - (ii) a place in Australia to an address outside Australia; or
 - (iii) a place outside Australia to an address outside Australia;

the period beginning on the day on which the applicant is taken to have received notice and ending at the end of the 70th day after that day.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

2.12E Payment of first instalment of visa application charge not required for certain combined applications

In spite of any other provision of these Regulations, an applicant is not liable to pay the first instalment of the visa application charge in relation to an application for a visa if:

- (a) the application is combined with another application in a way permitted by the relevant item in Schedule 1, or by regulation 2.08, 2.08A or 2.08B; and
- (b) the first instalment (if any) of the visa application charge in relation to that other application has been paid.

2.12F Refund of first instalment of visa application charge

- (1) The Minister must refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:
- (a) any of the circumstances mentioned in subregulation (2) exists; and
 - (b) the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

Note See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

- (2) For paragraph (1) (a), the circumstances are as follows:
- (a) the application is, for any reason, unnecessary;
 - (b) the application is made because of a mistake made by Immigration;
 - (c) the applicant dies before a decision is made on the application;
 - (d) the application is an application made in Australia for a Tourist (Class TR) visa or a Medical Treatment (Visitor) (Class UB) visa by an applicant who:
 - (i) satisfies the Minister that the applicant meets the requirements of subclause 675.221 (4), 676.221 (3) or 685.221 (6) of Schedule 2; and
 - (ii) is granted the further visa referred to in that subclause;
 - (e) the application is an application for a Subclass 471 (Trade Skills Training) visa that was made, but not finally determined (within the meaning of subsection 5 (9) of the Act), before the date of commencement of this paragraph.

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- (3) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:
- (a) the application was made because of a mistake by the applicant; and
 - (b) the applicant withdraws the application in writing; and
 - (c) after the withdrawal, the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.
- (3A) The Minister may refund the amount paid by way of the first instalment of the visa application charge in relation to an application for a visa if:
- (a) the application is for a Temporary Business Entry (Class UC) visa; and
 - (b) the applicant withdraws the application because the criterion in paragraph 457.223 (4) (ed) or (ee) or (5) (ba) of Schedule 2 cannot be satisfied; and
 - (c) the applicant withdraws the application in writing; and
 - (d) after the withdrawal, the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.
- (4) If the request for a refund is made on the basis that the applicant died before a decision was made on the application, the request must be accompanied by evidence, in a form that

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satisfies the requirements of the law in the place where the request is made, of the death of the applicant.

- (5) If the request for a refund is made by the legal personal representative of a payer who has died, the request must be accompanied by evidence, in a form that satisfies the requirements of the law in the place where the request is made, of the death of the payer.
- (6) A refund under this regulation must be paid to the person who made the request for the refund.
- (7) If:
 - (a) in the opinion of the Minister, there is no doubt about the identity of the payer; and
 - (b) the Minister pays the amount of the refund to:
 - (i) the payer; or
 - (ii) a person mentioned in subparagraph (1) (b) (ii) or (iii); or
 - (iii) a person mentioned in subparagraph (3) (c) (ii) or (iii); or
 - (iv) a person mentioned in subparagraph (3A) (d) (ii) or (iii);a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.
- (8) A refund under this regulation may be paid:
 - (a) in Australian currency; or
 - (b) if the amount of the instalment in respect of which the refund is being paid was paid in another currency, in that other currency.

2.12G When payment of second instalment of visa application charge not required

- (1) In spite of any other provision of these Regulations, an applicant is not liable to pay the second instalment of the visa application charge in relation to an application for a visa if:

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- (a) the applicant withdraws the application before the second instalment is paid; or
 - (b) the application, having been finally determined within the meaning of subsection 5 (9) of the Act, is refused.
- (2) For the purpose of this regulation, an application is taken not to have been finally determined if, for any reason, a court remits the application to the Minister to be decided.

2.12H Refund of second instalment of visa application charge

- (1) The Minister must refund the amount paid by way of the second instalment of the visa application charge in relation to an application for a visa if:
- (a) any of the circumstances mentioned in subregulation (2) exists; and
 - (b) the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

Note See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

- (2) For paragraph (1) (a), the circumstances are as follows:
- (a) the applicant withdraws the application in writing before the application is decided;
 - (b) the applicant dies before first entering Australia as the holder of the visa;
 - (c) the application has been finally determined within the meaning of subsection 5 (9) of the Act and the visa is not granted;
 - (d) the visa is granted, and later cancelled, before the applicant first enters Australia as the holder of the visa;

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- (e) the visa is granted, and otherwise ceases, before the applicant first enters Australia as the holder of the visa.
- (3) For this regulation, an application is taken not to have been finally determined if, for any reason, a court remits the application to the Minister to be decided.
- (4) If the request for a refund is made on the basis that the applicant died before first entering Australia as the holder of the visa, the request must be accompanied by evidence, in a form that satisfies the requirements of the law in the place where the request is made, of the death of the applicant.
- (5) If the request for a refund is made by the legal personal representative of a payer who has died, the request must be accompanied by evidence, in a form that satisfies the requirements of the law in the place where the request is made, of the death of the payer.
- (6) A refund under this regulation must be paid to the person who made the request for the refund.
- (7) If:
 - (a) in the opinion of the Minister, there is no doubt about the identity of the payer; and
 - (b) the Minister pays the amount of the refund to the payer or to a person mentioned in subparagraph (1) (b) (ii) or (iii);a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.
- (8) A refund under this regulation may be paid:
 - (a) in Australian currency; or
 - (b) if the amount of the instalment in respect of which the refund is being paid was paid in another currency, in that other currency.

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2.12I Partial refund of second instalment of visa application charge

- (1) The Minister must make a partial refund of the amount paid by way of the second instalment of the visa application charge in relation to an application for a visa if:
- (a) any of the circumstances mentioned in subregulation (2) exists; and
 - (b) the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

Note See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

- (2) For paragraph (1) (a), the circumstances are as follows:
- (a) the applicant dies before commencing a course of English language tuition to which the applicant is entitled under section 4C of the *Immigration (Education) Act 1971*;
 - (b) the visa is granted, and later cancelled, before the applicant commences a course of English language tuition to which the applicant is entitled under section 4C of the *Immigration (Education) Act 1971*;
 - (c) subject to subregulation (3), the visa is granted, and ceases to have effect, before the applicant commences a course of English language tuition to which the applicant is entitled under section 4C of the *Immigration (Education) Act 1971*;
 - (d) the obligation of the Commonwealth to the applicant under section 4C of the *Immigration (Education) Act 1971* has ceased, by operation of paragraph 4D (1) (a) of that Act, without the applicant receiving any English language tuition in an approved English course provided under that Act.

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- (3) Paragraph (2) (c) does not apply if, before the visa ceases to have effect, the Commonwealth's obligation under section 4C of the *Immigration (Education) Act 1971*, in relation to the applicant, has ceased by operation of paragraph 4D (1) (b), (c) or (d) or subsection 4D (2) of that Act.
- (4) If the request for a refund is made on the basis that the applicant died before commencing a course of English language tuition to which the applicant was entitled under section 4C of the *Immigration (Education) Act 1971*, the request must be accompanied by evidence, in a form that satisfies the requirements of the law in the place where the request is made, of the death of the applicant.
- (5) If the request for a refund is made by the legal personal representative of a payer who has died, the request must be accompanied by evidence, in a form that satisfies the requirements of the law in the place where the request is made, of the death of the payer.
- (6) A refund under this regulation must be paid to the person who made the request for the refund.
- (7) The amount of the refund is the relevant amount set out in Schedule 8A.
- (8) If:
 - (a) in the opinion of the Minister, there is no doubt about the identity of the payer; and
 - (b) the Minister pays the amount of the refund to the payer or to a person mentioned in subparagraph (1) (b) (ii) or (iii);a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.
- (9) A refund under this regulation may be paid:
 - (a) in Australian currency; or
 - (b) if the amount of the instalment in respect of which the refund is being paid was paid in another currency, in that other currency.

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2.12J Refund of first and second instalments of visa application charge for Resolution of Status (Temporary) (Class UH) visas

- (1) Without limiting regulation 2.12F or 2.12H, the Minister must refund the amount paid by way of the first and second instalments of the visa application charge in relation to an application for a Resolution of Status (Temporary) (Class UH) visa if:
 - (a) the applicant is the holder of a permanent visa other than a Resolution of Status (Residence) (Class BL) visa; and
 - (b) at the time of the grant of the permanent visa, the person was the holder of a Subclass 450 (Resolution of Status — Family Member (Temporary)) visa, or a Subclass 850 (Resolution of Status (Temporary)) visa, that was granted on the basis of an application made after the application for that permanent visa; and
 - (c) the Minister receives a written request for a refund from:
 - (i) the person who paid the amount (the *payer*); or
 - (ii) if the payer has died, or the payer has a serious physical or mental incapacity, the payer's legal personal representative; or
 - (iii) if the payer is a bankrupt within the meaning of the *Bankruptcy Act 1966*, the trustee of the estate of the payer.

Note See regulation 2.12K in relation to who is the person who pays an amount by way of an instalment of visa application charge.

- (2) If the request for a refund is made by the legal personal representative of a payer who has died, the request must be accompanied by evidence, in a form that satisfies the requirements of the law in the place where the request is made, of the death of the payer.
- (3) A refund under this regulation must be paid to the person who made the request for the refund.
- (4) If:
 - (a) in the opinion of the Minister, there is no doubt about the identity of the payer; and

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- (b) the Minister pays the amount of the refund to the payer or to a person mentioned in subparagraph (1) (c) (ii) or (iii); a receipt that is given by the person to whom the refund is paid is, for all purposes, a valid discharge of any liability of the Commonwealth in relation to the payment of the amount of the refund.
- (5) A refund under this regulation of the amount of the second instalment of the visa application charge may be paid:
 - (a) in Australian currency; or
 - (b) if the amount of the instalment was paid in another currency, in that other currency.

2.12JA Payment of visa application charge for Internet application

- (1) The visa application charge in relation to an Internet application must be paid by:
 - (a) credit card, in accordance with the instructions given to the applicant as part of making the Internet application; or
 - (b) funds transfer, in accordance with the instructions given to the applicant as part of making the Internet application.
- (2) If the visa application charge is paid in accordance with paragraph (1) (a), the charge is taken not to have been received until the payment has been confirmed by the issuer of the credit card.
- (3) If the visa application charge is paid in accordance with paragraph (1) (b), the charge is taken not to have been received until the payment is electronically matched to the applicant's Internet application form.

2.12K Who is the person who pays an instalment of visa application charge

For regulations 2.12F, 2.12H, 2.12I and 2.12J, the person who pays an amount by way of an instalment of visa application charge in relation to an application for a visa is:

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- (a) if the payment is made by an agent (whether or not a registered agent within the meaning of Part 3 of the Act) on behalf of the applicant — the applicant; and
- (b) in any other case:
 - (i) if the payment is made by cheque — the drawer of the cheque; and
 - (ii) if the payment is made by a credit or debit card — the person named on the card; and
 - (iii) if the payment is made in cash — the person presenting the cash; and
 - (iv) if the payment is made by bank cheque, bank draft, money order, or other similar instrument:
 - (A) the person presenting the instrument; or
 - (B) if that person is not the person named on the instrument as the purchaser of the instrument (the *purchaser*), the purchaser.

Division 2.3 Communication between applicant and Minister

2.13 Communication with Minister

- (1) For the purposes of section 52 of the Act (which deals with the way in which an applicant or interested person must communicate with the Minister), an applicant or interested person must communicate with the Minister about a visa application in the way provided by this regulation.
- (2) Except as provided by subregulation (3), the communication must be in writing.
- (3) The communication may be oral if it is:
 - (a) a communication about an application for a bridging visa; or
 - (b) an enquiry about the stage reached in the consideration of a visa application; or
 - (c) an oral application; or
 - (d) a communication about an application for an Electronic Travel Authority (Class UD) visa.

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- (4) A written communication must include:
- (a) the applicant's full name, as set out in the application; and
 - (b) the applicant's date of birth; and
 - (c) one of the following:
 - (i) the applicant's client number;
 - (ii) the Immigration file number;
 - (iii) the number of the receipt issued by Immigration when the visa application was made; and
 - (d) if the application was made outside Australia, the name of the office at which the application was given to the Minister.
- (5) Subject to subregulation (6), a document accompanying a written communication must be:
- (a) the original; or
 - (b) a copy of the original certified in writing to be a true copy by:
 - (i) a Justice of the Peace; or
 - (ii) a Commissioner for Declarations; or
 - (iii) a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959*; or
 - (iv) a registered migration agent whose registration is not:
 - (A) suspended; or
 - (B) subject to a caution; or
 - (v) if the copy is certified in a place outside Australia:
 - (A) a registered migration agent mentioned in subparagraph (iv); or
 - (B) a person who is the equivalent of a Justice of the Peace or Commissioner for Declarations in that place.

Note Section 303 of the Act provides that the Migration Agents Registration Authority may suspend the registration of a registered migration agent or caution him or her. If a registered migration agent is subject to a suspension of his or her registration, or a caution, particulars of the suspension or caution are shown on the Register of Migration Agents: subsection 287 (2) of the Act. These particulars must be removed once the suspension or caution is no longer in effect: subsection 287 (5) of the Act.

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- (6) If an applicant (other than an applicant for a Visitor (Class TV) visa) or interested person is required or permitted to produce a document in connection with the visa application, the document and the written communication that accompanies it may be in the form of an electronic communication only if:
 - (a) the document is in a class of documents specified by Gazette Notice as documents that may be sent by electronic communication; or
 - (b) the Minister has permitted the applicant or interested person to send the document by electronic communication.
- (7) For subregulation (6), if the Minister requires an applicant or interested person to give the Minister the original of a document that has already been given by electronic communication:
 - (a) the giving of the original, otherwise than by electronic communication, is a prescribed way of communication; and
 - (b) subregulation (5) applies to the original of the document.
- (8) An applicant for a Visitor (Class TV) visa must communicate with the Minister about the application:
 - (a) by electronic communication; or
 - (b) in another form permitted by the Minister.

Note This regulation is subject to sections 56 and 58 of the Act, which provide that the Minister may specify the way in which additional information or comments about an application may be given by an applicant. If the Minister specifies a way in which further information or comments must be given for the purposes of either of those sections, the information or comments must be given in that way. Regulation 2.13 then does not apply.

2.14 Where written communication must be sent

For the purposes of section 52 of the Act (which deals with the way in which an applicant or interested person must communicate with the Minister), a written communication to the Minister about an application must be sent to or left at:

- (a) the office at which the application was given to the Minister; or

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- (b) if the Minister has notified the applicant in writing of another office in substitution for that office — that other office.

2.15 Response to invitation to give information or comments — prescribed periods

- (1) For the purposes of subsection 58 (2) of the Act (which deals with invitations to make comments or give further information), and subject to subregulation (2), the prescribed period for giving additional information or comments in response to an invitation is:
 - (a) in the case of an application for a substantive visa that was made by an applicant who is in immigration detention — 3 working days after the applicant is notified of the invitation; or
 - (b) in the case of an application made by a person who is in Australia, other than a person referred to in paragraph (a):
 - (i) if the invitation is given at an interview — 7 days after the interview; or
 - (ii) if the invitation is given otherwise than at an interview:
 - (A) in the case of an application for a Tourist (Class TR) visa or a Medical Treatment (Visitor) (Class UB) visa — 7 days after the applicant is notified of the invitation; or
 - (B) in the case of an application for a Temporary Business Entry (Class UC) visa made by an applicant who seeks a visa to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of 3 months or less — 7 days after the applicant is notified of the invitation; or
 - (C) in any other case — 28 days after the applicant is notified of the invitation; or

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- (c) in the case of an application made by an applicant (other than an applicant for a Visitor (Class TV) visa) who is not in Australia:
 - (i) 28 days after the applicant is notified of the invitation; or
 - (ii) if the Minister so decides in the circumstances of the case — 70 days after the applicant is notified of the invitation; or
 - (d) in the case of an application made by an applicant for a Visitor (Class TV) visa:
 - (i) 7 days after the applicant is notified of the invitation; or
 - (ii) if the Minister so decides in the circumstances of the case — 70 days after the applicant is notified of the invitation.
- (2) Subregulation (1) does not apply to a request for information or comments to be obtained from a third party regarding the following matters:
- (a) the applicant's health;
 - (b) the satisfaction by the applicant of public interest criteria;
 - (c) the satisfaction of criteria relating to the applicant's capacity to communicate in English;
 - (d) assessment of the applicant's skills or qualifications.
- (3) For the purposes of paragraph 58 (3) (b) of the Act (which deals with the time in which an interview is to take place), the prescribed period is:
- (a) in the case of an application for a substantive visa that was made by an applicant who is in immigration detention — 3 working days after the applicant is notified of the invitation; or
 - (b) in the case of an application made by an applicant who is in Australia, other than a person referred to in paragraph (a):
 - (i) in the case of an application for a Tourist (Class TR) visa or a Medical Treatment (Visitor) (Class UB) visa — 7 days after the applicant is notified of the invitation; or

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- (ii) in the case of an application for a Temporary Business Entry (Class UC) visa made by an applicant who seeks a visa to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of 3 months or less — 7 days after the applicant is notified of the invitation; or
 - (iii) in any other case — 28 days after the applicant is notified of the invitation; or
 - (c) in the case of an application made by an applicant who is not in Australia:
 - (i) 28 days; or
 - (ii) if the Minister so decides in the circumstances of the case — 70 days;after the applicant is notified of the invitation.
- (4) For the purposes of subsection 58 (4) or (5) of the Act (dealing with extending the period to respond to an invitation or attend for interview), the prescribed further period is:
- (a) if the applicant is in immigration detention — 2 working days; or
 - (b) if the applicant is in Australia but is not in immigration detention — 7 days; or
 - (c) if the applicant is not in Australia:
 - (i) 7 days; or
 - (ii) if the Minister so decides in the circumstances of the case — 28 days;after the applicant is notified of the invitation.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

2.16 Notification of decision on visa application

- (1) For subsections 66 (1) and 501G (3) of the Act (which deal with giving notice of decisions), this regulation sets out the way of notifying a person of a decision to grant or refuse to grant a visa.

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Grant of visa

- (2) The Minister must notify the applicant of the grant of the visa in one of the following ways:
- (a) if the visa is a bridging visa granted at the same time as a substantive visa — by:
 - (i) notifying the applicant of the grant of the substantive visa; or
 - (ii) giving the applicant evidence of the substantive visa;
 - (aa) if the visa:
 - (i) is a special category visa; and
 - (ii) has been granted using an authorised system in accordance with an arrangement made under subsection 495A (1) of the Act — by a general notice in immigration clearance.
 - (b) in any other case — by:
 - (i) telling the applicant orally that the visa has been granted; or
 - (ii) notifying the applicant by one of the methods specified in section 494B of the Act; or
 - (iii) giving the applicant evidence of the visa.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

Refusal to grant visa

- (3) The Minister must notify an applicant of a decision to refuse to grant a visa by one of the methods specified in section 494B of the Act.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

Division 2.4 Evidence of visas

2.17 Ways of giving evidence of a visa

- (1) For the purposes of subsection 71 (1) of the Act (which deals with giving evidence of the grant of a visa), evidence of a visa that has been granted to a non-citizen may be given:
 - (a) in the way (if any) specified in the relevant Part of Schedule 2 for a visa of that subclass; or
 - (b) if the relevant Part of Schedule 2 does not specify a way of giving evidence — by:
 - (i) a label that is affixed to the non-citizen's passport by an officer; or
 - (ii) an imprint that is stamped in the non-citizen's passport by an officer; or
 - (iii) a document that is given to the non-citizen by an officer.
- (2) Evidence of the grant of a substantive visa (other than a transitional visa) that is given by means of a visa label must include:
 - (a) a statement of the period for which the visa is in effect; and
 - (b) a statement of the class and the subclass to which the visa belongs; and
 - (c) if the visa allows the holder to travel to and enter Australia — a statement of that fact.
- (3) In a statement for the purposes of paragraph (2) (b):
 - (a) the class to which a visa belongs may be identified by the 2-letter code specified in the heading of the relevant item of Schedule 1; and
 - (b) the subclass to which a visa belongs may be identified by the 3-digit code of the relevant Part of Schedule 2.
- (4) Every document of the kind referred to in subparagraph (1) (b) (iii) must be uniquely identified (for example, by a distinctive number).

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- (5) If the Minister has given to a non-citizen to whom a visa has been granted a written statement of the conditions (if any) to which the grant of the visa is subject, it is not necessary for the evidence of the visa to set out those conditions.
- (6) If:
 - (a) evidence of the grant of a visa (other than a transitional visa or a visa of a class referred to in regulation 2.18) to a non-citizen has been given to the non-citizen; and
 - (b) either:
 - (i) the evidence, or the passport or document in which it was given, has been damaged, defaced, lost, stolen or destroyed, or otherwise cannot, for good reason, be presented for travel purposes; or
 - (ii) the passport or document has expired, or has been cancelled, or is no longer applicable to that person;replacement evidence may be given to the non-citizen in any way mentioned in the Part of Schedule 2 that relates to visas of the same subclass as the visa that was granted.
- (7) In the case of a substantive visa, the replacement evidence must include:
 - (a) a statement of the period for which the visa is in effect; and
 - (b) a statement of the class and the subclass to which the visa belongs; and
 - (c) if the visa allows the holder to travel to and enter Australia, a statement of that fact.

2.18 Re-evidencing of resident return visas

- (1) If:
 - (a) evidence of a resident return visa has been given in a passport; and
 - (b) either:
 - (i) the evidence, or the passport, has been damaged, defaced, lost, stolen or destroyed, or otherwise cannot, for good reason, be presented for travel purposes; or

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- (ii) the passport has expired, or has been cancelled, or is no longer applicable to that person;
the person to whom the visa was granted may apply to the Minister for evidence of the visa to be given to the person in a passport of that person.
- (2) If the application is an Internet application:
 - (a) the application must be in accordance with approved form 1085E; and
 - (b) the applicant must be in Australia at the time of making the application; and
 - (c) the fee payable on an application is \$60.
- (2A) If the application is not an Internet application, and the applicant is in Australia at the time of making the application:
 - (a) the application must:
 - (i) be in accordance with approved form 1085; or
 - (ii) be made orally, by attending an office of Immigration in Australia and presenting a valid passport; or
 - (iii) be made in writing:
 - (A) delivered to an office of Immigration in Australia; and
 - (B) accompanied by presentation of a valid passport; and
 - (b) the fee payable on an application is \$60.
- (3) If the application is not an Internet application, and the applicant is not in Australia at the time of making the application:
 - (a) the application must be in accordance with approved form 1085; and
 - (b) the fee payable on application is \$100.
- (4) In this regulation, **resident return visa** means:
 - (a) a Return (Residence) (Class BB) visa; or
 - (b) a Resident Return (Temporary) (Class TP) visa; or

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- (c) a Group 1.4 (resident return (permanent entry) or Class 159 (resident return (F)) visa granted under the Migration (1993) Regulations that is continued in force under the Migration Reform (Transitional Provisions) Regulations as a transitional (temporary) or transitional (permanent) visa, as the case requires; or
- (d) a visa of one of the following classes granted under the Migration (1989) Regulations:
 - (i) return visa, class A (code number 154);
 - (ii) return visa, class B (code number 155);
 - (iii) return visa, class C (code number 156);
 - (iv) return visa, class D (code number 157);
 - (v) return visa, class E (code number 158);
 - (vi) return visa, class F (code number 159);that is continued in force under the Migration Reform (Transitional Provisions) Regulations as a transitional (temporary) or transitional (permanent) visa, as the case requires; or
- (e) a transitional (permanent) visa that is taken to have been granted under regulation 9 of the Migration Reform (Transitional Provisions) Regulations; or
- (f) a Subclass 156 (One Year Return) visa.

2.19 Evidence of visa need not be given in certain cases

No evidence of the grant of a visa need be given:

- (a) if the relevant Part of Schedule 2 so provides; or
- (b) if the relevant Part of Schedule 2 requires the evidence to be placed in a passport, and the holder of the visa:
 - (i) does not produce a passport to an officer; or
 - (ii) produces to an officer a document that the Minister has directed, under subsection 71 (3) of the Act, is not to be taken to be a passport for the purposes of the clause of Schedule 2 under which evidence is to be given of the visa;

until the holder produces a passport to an officer; or

- (c) if the visa:
 - (i) is not a Return (Residence) (Class BB) visa; and
 - (ii) is granted on the basis of an oral application.

Note Under subsection 71 (3) of the Act, the Minister may declare that a specified document is not to be taken to be a passport for the purposes of a provision of the Regulations that provides that evidence of a visa may be given by endorsing a valid passport or other valid travel document.

Division 2.5 Bridging visas

2.20 Eligible non-citizen (Act, s 72)

- (1) For the purposes of the definition of eligible *non-citizen* in section 72 of the Act (which deals with persons eligible to be granted a bridging visa), the classes of persons described in subregulations (2) to (12) and (14) and (15) are prescribed.
- (2) This subregulation applies to a non-citizen who, before 1 September 1994:
 - (a) was in custody under Division 4B of Part 2 of the Act as in force immediately before 1 September 1994; and
 - (b) was released from custody on expiry of a period referred to in subsection 54Q (1) or (2) of that Act (which deals with the release of designated persons from custody); and
 - (c) has not departed Australia since being released from custody; and
 - (d) has not subsequently been granted a visa or entry permit.
- (3) This subregulation applies to a non-citizen:
 - (a) who is, or has been, in immigration detention under Division 6 of Part 2 of the Act (which deals with the immigration detention of designated persons); and
 - (b) in respect of whom the period mentioned in subsection 182 (1) or (2) of the Act expires on or after 1 September 1994;
from the day 2 working days before the expiry of the period mentioned in whichever of those subsections applies to the non-citizen.

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- (4) This subregulation applies to a non-citizen:
- (a) who is:
 - (i) in immigration detention under Division 6 of Part 2 of the Act; and
 - (ii) the spouse or de facto partner of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen, if the Minister is satisfied that the relationship is genuine and continuing; and
 - (iii) nominated by the Australian citizen, Australian permanent resident or eligible New Zealand citizen referred to in subparagraph (ii); or
 - (b) who is a member of the family unit of a person referred to in paragraph (a).
- (5) This subregulation applies to a non-citizen:
- (a) who is in immigration detention under Division 6 of Part 2 of the Act; and
 - (b) who has not turned 18; and
 - (c) in respect of whom a child welfare authority of a State or Territory has certified that release from detention is in the best interests of the non-citizen; and
 - (d) in respect of whom the Minister is satisfied that:
 - (i) arrangements have been made between the non-citizen and an Australian citizen, Australian permanent resident or eligible New Zealand citizen for the care and welfare of the non-citizen; and
 - (ii) those arrangements are in the best interests of the non-citizen; and
 - (iii) the grant of a visa to the non-citizen would not prejudice the rights and interests of any person who has, or may reasonably be expected to have, custody or guardianship of, or access to, the non-citizen.
- (6) This subregulation applies to a non-citizen who:
- (a) either:
 - (i) bypassed immigration clearance on or after 1 September 1994 and has not subsequently been granted a substantive visa; or

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- (ii) entered Australia without authority before 1 September 1994 and has not subsequently been granted a substantive visa or entry permit; and
 - (d) has not come to the notice of Immigration as an illegal entrant or an unlawful non-citizen within 45 days of entering Australia.
- (6A) This subregulation applies to a non-citizen who:
- (a) last held a student visa that was cancelled under section 137J of the Act; and
 - (b) has been refused immigration clearance.
- (7) This subregulation applies to a non-citizen:
- (a) who, on or after 1 September 1994:
 - (i) was refused immigration clearance; or
 - (ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and
 - (b) if:
 - (i) on or after 1 September 1994:
 - (A) the non-citizen made a Protection (Class AZ) visa application that is not finally determined; or
 - (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class AZ) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's Protection (Class AZ) visa application; or
 - (ii) on or after 20 October 1999:
 - (A) the non-citizen made a Protection (Class XA) visa application that is not finally determined; or
 - (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class XA) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's Protection (Class XA) visa application; and

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- (c) who has not turned 18; and
 - (d) in respect of whom a child welfare authority of a State or Territory has certified that release from detention is in the best interests of the non-citizen; and
 - (e) in respect of whom the Minister is satisfied that:
 - (i) arrangements have been made between the non-citizen and an Australian citizen, Australian permanent resident or eligible New Zealand citizen for the care and welfare of the non-citizen; and
 - (ii) those arrangements are in the best interests of the non-citizen; and
 - (iii) the grant of a visa to the non-citizen would not prejudice the rights and interests of any person who has, or may reasonably be expected to have, custody or guardianship of, or access to, the non-citizen.
- (8) This subregulation applies to a non-citizen:
- (a) who, on or after 1 September 1994:
 - (i) was refused immigration clearance; or
 - (ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and
 - (b) if:
 - (i) on or after 1 September 1994:
 - (A) the non-citizen made a Protection (Class AZ) visa application that is not finally determined; or
 - (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class AZ) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's Protection (Class AZ) visa application; or
 - (ii) on or after 20 October 1999:
 - (A) the non-citizen made a Protection (Class XA) visa application that is not finally determined; or

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- (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class XA) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's Protection (Class XA) visa application; and
 - (c) who has turned 75; and
 - (d) in respect of whom the Minister is satisfied that adequate arrangements have been made for his or her support in the community.
- (9) This subregulation applies to a non-citizen:
- (a) who, on or after 1 September 1994:
 - (i) was refused immigration clearance; or
 - (ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and
 - (b) if:
 - (i) on or after 1 September 1994:
 - (A) the non-citizen made a Protection (Class AZ) visa application that is not finally determined; or
 - (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class AZ) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's Protection (Class AZ) visa application; or
 - (ii) on or after 20 October 1999:
 - (A) the non-citizen made a Protection (Class XA) visa application that is not finally determined; or
 - (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class XA) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's Protection (Class XA) visa application; and

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- (c) who has a special need (based on health or previous experience of torture or trauma) in respect of which a medical specialist appointed by Immigration has certified that the non-citizen cannot properly be cared for in a detention environment; and
 - (d) in respect of whom the Minister is satisfied that adequate arrangements have been made for his or her support in the community.
- (10) This subregulation applies to a non-citizen:
- (a) who, on or after 1 September 1994:
 - (i) was refused immigration clearance; or
 - (ii) bypassed immigration clearance and came to the notice of Immigration as an unlawful non-citizen within 45 days of entering Australia; and
 - (b) if:
 - (i) on or after 1 September 1994:
 - (A) the non-citizen made a Protection (Class AZ) visa application that is not finally determined; or
 - (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class AZ) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's Protection (Class AZ) visa application; or
 - (ii) on or after 20 October 1999:
 - (A) the non-citizen made a Protection (Class XA) visa application that is not finally determined; or
 - (B) the non-citizen applied for judicial review of a decision to refuse a Protection (Class XA) visa; or
 - (C) the Minister has applied for judicial review of a decision in relation to the non-citizen's substantive visa application; and

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- (c) who is the spouse or de facto partner of an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (d) in relation to whom the Minister is satisfied that the non-citizen's relationship with that Australian citizen, Australian permanent resident or eligible New Zealand citizen is genuine and continuing; and
 - (e) who is nominated by that Australian citizen, Australian permanent resident or eligible New Zealand citizen.
- (11) This subregulation applies to a non-citizen who is a member of the family unit of a non-citizen to whom subregulation (10) applies.
- (12) This subregulation applies to a non-citizen if:
- (a) the non-citizen is in immigration detention; and
 - (b) the Minister is satisfied that the non-citizen's removal from Australia is not reasonably practicable at that time; and
 - (c) the Minister is satisfied that the non-citizen will do everything possible to facilitate the non-citizen's removal from Australia; and
 - (e) any visa applications made by the non-citizen, other than an application made following the exercise of the Minister's power under section 48B of the Act, have been finally determined.
- (13) For paragraph (12) (b), a non-citizen's removal from Australia is not to be taken to be not reasonably practicable only because the non-citizen is a party to proceedings in a court or tribunal related to an issue in connection with a visa.
- (14) This subregulation applies to:
- (a) a non-citizen:
 - (i) who is outside Australia; and
 - (ii) in relation to whom an officer of:
 - (A) the Australian Federal Police; or
 - (B) a police force of a State or Territory; or

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- (C) the office of the Director of Public Prosecutions of the Commonwealth, a State or a Territory; or
 - (D) a body of the Commonwealth, a State or a Territory that has functions similar to those of an office of a Director of Public Prosecutions;
- has told Immigration in writing that:
- (E) the non-citizen has been identified as a suspected victim of human trafficking; and
 - (F) suitable arrangements have been made for the care, safety and welfare of the non-citizen in Australia for the proposed period of the bridging visa; and
- (b) a non-citizen (a *family member*):
- (i) who is outside Australia; and
 - (ii) who is a member of the immediate family of a non-citizen mentioned in paragraph (a); and
 - (iii) in relation to whom the Minister has been told in writing, by an officer of the authority that told Immigration for the purposes of paragraph (a), that suitable arrangements have been made for the care, safety and welfare of the family member in Australia for the proposed period of the bridging visa.
- (15) This subregulation applies to:
- (a) a non-citizen:
- (i) who is in Australia; and
 - (ii) is the subject of a valid criminal justice stay certificate under Division 4 of Part 2 of the Act; and
 - (iii) whom the Minister is satisfied needs to travel outside Australia for compelling and compassionate reasons; and
 - (iv) in relation to whom an officer of:
 - (A) the Australian Federal Police; or
 - (B) a police force of a State or Territory; or

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(C) the office of the Director of Public Prosecutions of the Commonwealth, a State or a Territory; or

(D) a body of the Commonwealth, a State or a Territory that has functions similar to those of an office of a Director of Public Prosecutions;

has told Immigration in writing that suitable arrangements have been made for the care, safety and welfare of the non-citizen in Australia for the proposed period of the bridging visa; and

- (b) a non-citizen (a *family member*):
- (i) who is a member of the immediate family of a non-citizen mentioned in paragraph (a); and
 - (ii) in relation to whom the Minister has been told in writing, by an officer of the authority that told Immigration for the purposes of subparagraph (a) (iv), that suitable arrangements have been made for the care, safety and welfare of the family member in Australia for the proposed period of the bridging visa.

2.20A Applications for Bridging R (Class WR) visas

- (1) For subsection 46 (2) of the Act, a Bridging R (Class WR) visa is a prescribed class of visa.
- (2) An application for a Bridging R (Class WR) visa is taken to have been validly made by a person if:
 - (a) the person has been given an invitation in writing by the Minister, by one of the methods specified in section 494B of the Act, to apply for the visa; and
 - (b) the person indicates in writing to Immigration, not later than 7 days after the person is taken to have received that invitation, that he or she accepts the invitation.

Note See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

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2.20B Applications for Bridging F (Class WF) visas

- (1) For subsection 46 (2) of the Act, a Bridging F (Class WF) visa is a prescribed class of visa.
- (2) Despite regulation 2.07 and Schedule 1, and as an alternative to item 1306 of Schedule 1, an application for a Bridging F (Class WF) visa is taken to have been validly made by a non-citizen to whom subregulation 2.20 (14) or (15) applies, or a non-citizen to whom subregulation 2.20 (15) would have applied if the non-citizen had been immigration cleared, if:
 - (a) the non-citizen has been given an invitation in writing by the Minister, by one of the methods specified in section 494B of the Act, to apply for the visa; and
 - (b) the non-citizen indicates in writing to Immigration, not later than 7 days after the non-citizen is taken to have received that invitation, that he or she accepts the invitation.

Note See section 494C of the Act for when a person is taken to have received a document given by one of the methods specified in section 494B of the Act.

2.21 Most beneficial bridging visas (Act, s 68 (4) (b) (ii))

- (1) For the purposes of subparagraph 68 (4) (b) (ii) of the Act (which deals with the order in which bridging visas are reactivated), if a non-citizen holds more than 1 bridging visa, the bridging visa that is the most beneficial is to be determined as set out in this regulation.
- (2) The order of classes from most beneficial to least beneficial is:
 - (a) Bridging B (Class WB) visa;
 - (b) Bridging A (Class WA) visa;
 - (c) Bridging C (Class WC) visa;
 - (d) Bridging D (Class WD) visa;
 - (da) Bridging R (Class WR) visa;
 - (e) Bridging E (Class WE) visa;
 - (f) Bridging F (Class WF) visa.

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- (3) A bridging visa of Class WA, WB or WC that confers an unlimited right to work is taken to be more beneficial than another bridging visa of the same class that confers a limited right to work, and a bridging visa of one of those classes that confers a limited right to work is taken to be more beneficial than one of the same class that confers no right to work.
- (4) A bridging visa of Class WA, WB or WC is taken to be more beneficial than another bridging visa of the same class that is subject to the same work conditions if the first-mentioned visa was granted before the second-mentioned visa.
- (5) If a non-citizen holds 2 or more Bridging E visas, the one that is granted later or latest is taken to be the more or most beneficial.

2.21A Grant of Bridging A (Class WA) visas without application

- (1) This regulation applies to a person:
 - (a) who is in Australia, but not in immigration clearance; and
 - (b) whose application for a Spouse (Migrant) (Class BC) visa, a Partner (Migrant) (Class BC) visa or an Interdependency (Migrant) (Class BI) visa was withdrawn, or refused (except under section 501, 501A or 501B of the Act), when the person was in Australia; and
 - (c) who was, immediately before that withdrawal or refusal, the holder of a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa; and
 - (d) who has not already been granted a visa under this regulation in relation to the withdrawal or refusal.
- (2) This regulation also applies to a person:
 - (a) who is in Australia, but not in immigration clearance; and
 - (b) whose application for an Aged Parent (Residence) (Class BP) visa was withdrawn:
 - (i) while the person was in Australia; and

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- (ii) at the same time as the person applied for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa; and
 - (c) who was, immediately before that withdrawal, the holder of a Subclass 010 (Bridging A) visa or a Subclass 020 (Bridging B) visa that was granted in association with the application for an Aged Parent (Residence) (Class BP) visa mentioned in paragraph (b); and
 - (d) who does not hold a substantive visa; and
 - (e) who has not already been granted a Subclass 010 (Bridging A) visa under this regulation in relation to:
 - (i) the withdrawal of the application for an Aged Parent (Residence) (Class BP) visa mentioned in paragraph (b); and
 - (ii) the application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa mentioned in paragraph (b).
- (3) This regulation also applies to a person:
 - (a) who is in Australia, but not in immigration clearance; and
 - (b) whose application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa was withdrawn:
 - (i) while the person was in Australia; and
 - (ii) at the same time as the person applied for an Aged Parent (Residence) (Class BP) visa; and
 - (c) who was, immediately before that withdrawal, the holder of a Subclass 010 (Bridging A) visa or a Subclass 020 (Bridging B) visa that was granted in association with the application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa mentioned in paragraph (b); and
 - (d) who does not hold a substantive visa; and

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- (e) who has not already been granted a Subclass 010 (Bridging A) visa under this regulation in relation to:
 - (i) the withdrawal of the application for a Contributory Aged Parent (Residence) (Class DG) visa or a Contributory Aged Parent (Temporary) (Class UU) visa mentioned in paragraph (b); and
 - (ii) the application for an Aged Parent (Residence) (Class BP) visa mentioned in paragraph (b).
- (4) Despite Schedule 1, the Minister must grant a Bridging A (Class WA) visa in relation to the person mentioned in subregulation (1), (2) or (3).

2.21B Grant of Bridging A (Class WA), Bridging C (Class WC) and Bridging E (Class WE) visas without application

- (1) This regulation applies if a non-citizen who is in Australia, but not in immigration clearance, has made:
 - (a) a valid application for a visa on form 157P, form 601, form 601E or form 1182; or
 - (b) a valid oral application for a Tourist (Class TR) visa; or
 - (c) a valid application under regulation 2.07AK;and the application has not been finally determined.
- (2) Despite anything in Schedule 1, the Minister may grant the non-citizen a Bridging A (Class WA) visa, a Bridging C (Class WC) visa or a Bridging E (Class WE) visa if the Minister is satisfied that:
 - (a) at the time of decision, the non-citizen meets:
 - (i) the criteria to be satisfied by an applicant for the visa at the time of application; and
 - (ii) the criteria to be satisfied by an applicant for the visa at the time of decision; and
 - (b) the circumstances applicable to the grant exist in relation to the non-citizen.

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2.22 Invalid application for substantive visa

- (1) Subject to subregulation (2), a non-citizen is taken to have applied for a Bridging D (Class WD) visa if:
 - (a) the non-citizen is in Australia but is not in immigration or criminal detention; and
 - (b) he or she applies for a substantive visa of a class that may be granted in Australia; and
 - (c) the application:
 - (i) is given to the Minister in a way other than by personal attendance at an office of Immigration; and
 - (ii) is invalid as an application for a substantive visa of that class; and
 - (d) the invalidity of the application is not by reason of its purporting to have been made contrary to section 48 or 48A of the Act (whether or not the Minister has made a determination under subsection 48B (1) of the Act in relation to the application or action has been taken by any person to seek the making of such a determination).
- (2) A reference in subregulation (1) to an application does not include the following:
 - (a) an oral application, or an oral communication that purports to be an oral application;
 - (b) an Internet application, or an electronic communication that purports to be an Internet application;
 - (c) an application for a Graduate — Skilled (Temporary) (Class UQ) visa;
 - (d) an application for a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (e) an application for a Skilled — Australian-sponsored Overseas Student (Class DE) visa.

2.23 Further application for bridging visa (Act, s 74)

For the purposes of subsection 74 (2) of the Act (which deals with a further application for a bridging visa), the prescribed circumstances are that the Minister is satisfied that, although the non-citizen has not made a further application for a Bridging E (Class WE) visa after being refused a visa of that

class, the non-citizen now satisfies the criteria for the grant of a visa of that class.

2.24 Eligible non-citizen in immigration detention (Act, s 75)

- (1) For paragraph 75 (1) (a) of the Act (which deals with the class of bridging visa that may be granted to a non-citizen in immigration detention), the prescribed classes of bridging visa are:
 - (a) Bridging E (Class WE) visa; and
 - (b) Bridging F (Class WF) visa.
- (2) For the purposes of paragraph 75 (1) (b) of the Act (which deals with the time in which the Minister must make a decision on a bridging visa application), the prescribed period is:
 - (a) in the case of an application by:
 - (i) a non-citizen who has been immigration cleared; or
 - (ii) a non-citizen who is an eligible non-citizen referred to in subregulation 2.20 (6);2 working days; or
 - (b) in any other case — 28 days.

Note The prescribed conditions for the purposes of section 75 are set out in:

- (a) clause 050.612 in Schedule 2 (for a Bridging E (Class WE) visa); and
- (b) clause 060.611 in Schedule 2 (for a Bridging F (Class WF) visa).

2.25 Grant of Bridging E (Class WE) visas without application

- (1) This regulation applies to:
 - (a) a non-citizen who is in criminal detention; or
 - (b) a non-citizen who:
 - (i) is unwilling or unable to make a valid application for a Bridging E (Class WE) visa; and
 - (ii) is not barred from making a valid application for a Bridging E (Class WE) visa by a provision in the Act or these Regulations, other than in item 1305 of Schedule 1.

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- (2) Despite anything in Schedule 1, the Minister may grant the non-citizen a Bridging E (Class WE) visa if the Minister is satisfied that, at the time of decision:
 - (a) the non-citizen satisfies:
 - (i) the criteria set out in clauses 050.211, 050.212, 050.223, 050.224 and 050.411 of Schedule 2; and
 - (ii) the interview criterion; or
 - (b) the non-citizen satisfies the criteria set out in clauses 051.211, 051.212, 051.213, 051.221 and 051.411 of Schedule 2.
- (3) The non-citizen satisfies the *interview criterion* if an officer who is authorised by the Secretary for the purposes of subclause 050.222 (1) of Schedule 2 has either:
 - (a) interviewed the non-citizen; or
 - (b) decided that it is not necessary to interview the non-citizen.

**Division 2.5A Special provisions relating to
certain health criteria**

2.25A Referral to Medical Officers of the Commonwealth

- (1) In determining whether an applicant satisfies the criteria for the grant of a visa, the Minister must seek the opinion of a Medical Officer of the Commonwealth on whether a person (whether the applicant or another person) meets the requirements of paragraph 4005 (a), 4005 (b), 4005 (c), 4006A (1) (a), 4006A (1) (b), 4006A (1) (c), 4007 (1) (a), 4007 (1) (b) or 4007 (1) (c) of Schedule 4 unless:
 - (a) the application is for a temporary visa and there is no information known to Immigration (either through the application or otherwise) to the effect that the person may not meet any of those requirements; or
 - (b) the application is for a permanent visa that is made from a country (whether Australia or a foreign country) specified by Gazette Notice for the purposes of this paragraph and there is no information known to Immigration (either

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through the application or otherwise) to the effect that the person may not meet any of those requirements.

Note **foreign country** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

- (2) In determining whether an applicant satisfies the criteria for the grant of a Medical Treatment (Visitor) (Class UB) visa, the Minister must seek the opinion of a Medical Officer of the Commonwealth on whether the applicant meets the requirements of:
 - (a) subparagraphs 675.221 (2) (f) (i) and 675.221 (2) (g) (i), (ii) and (iii) of Schedule 2; or
 - (b) subparagraphs 685.221 (2) (f) (i) and 685.221 (2) (g) (i), (ii) and (iii) of Schedule 2;if there is information known to Immigration (either through the application or otherwise) to the effect that the applicant may not meet any of those requirements or be able to satisfy the Minister as to those matters.
- (3) The Minister is to take the opinion of the Medical Officer of the Commonwealth on a matter referred to in subregulation (1) or (2) to be correct for the purposes of deciding whether a person meets a requirement or satisfies a criterion.

Division 2.6 Prescribed qualifications — application of points system

2.26 Prescribed qualifications and number of points — Independent (Migrant) (Class AT) and Skilled – Australian-linked (Migrant) (Class AJ) visas

- (1A) This regulation applies to an applicant for an Independent (Migrant) (Class AT) or a Skilled – Australian-linked (Migrant) (Class AJ) visa.
- (1) For the purposes of subsection 93 (1) of the Act (which deals with determination of an applicant's points score):
 - (a) each qualification specified in column 2 of an item in Part 1, 2, 3, 4, 5, 6, or 7 of Schedule 6 is prescribed as a

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- qualification in relation to the grant, to the applicant, of a Subclass 105 (Skilled – Australian Linked) visa; and
- (b) each qualification specified in column 2 of an item in Part 1, 2, or 3 of Schedule 6 is prescribed as a qualification in relation to the grant, to the applicant, of a Subclass 126 (Independent), or Subclass 135 (State/Territory-Nominated Independent), visa.
- (2) In relation to a prescribed qualification specified in column 2 of an item in Schedule 6, the number of points specified in column 3 of that item is prescribed.
- (3) For the purposes of subsection 93 (1) of the Act (which deals with determination of an applicant's points score), the Minister:
- (a) is not to give the applicant a prescribed number of points for more than one prescribed qualification in each Part of Schedule 6; and
- (b) is to give the applicant only the number of points applicable to the prescribed qualification that meets the applicant's circumstances and for which the prescribed number of points is the highest for any such prescribed qualification; and
- (c) is to deduct 25 points from the total number of points otherwise obtained by the applicant if the usual occupation of the applicant is that of medical practitioner (including specialist medical practitioner); and
- (d) in relation to the determination of the points score of the applicant for a Subclass 105 (Skilled – Australian Linked) or Subclass 126 (Independent) visa, must add 5 points to the total number of points otherwise obtained by the applicant if the applicant holds an award (being an Australian degree, higher degree, diploma or trade certificate) obtained after a period of at least 1 year of full-time study in Australia for that award.
- (4) If:
- (a) the applicant cannot provide the evidence that is required by an item in Part 3 of Schedule 6; or

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- (b) the Minister determines that it is not reasonably practicable, or not necessary, for the applicant to sit for an ACCESS test or an IELTS test;

the Minister may determine that the applicant has a level of English proficiency equivalent to that mentioned in an item in that Part.

- (5) In Part 1 of Schedule 6:

associate diploma means:

- (a) a formal educational qualification awarded by an Australian educational institution as an associate diploma for which:
- (i) the entry level to the course leading to the qualification is satisfactory completion of year 12 in the Australian school system or of equivalent schooling; and
 - (ii) 2 years of full-time study, or the equivalent period of part-time study, is required; or
- (b) a formal educational qualification that is of an equivalent standard awarded by an educational institution outside Australia.

certificate or advanced certificate means:

- (a) a formal educational qualification awarded by an Australian educational institution as a certificate or advanced certificate for which:
- (i) in the case of a qualification that is an advanced certificate — the entry level to the course leading to the qualification is completion of year 10 in the Australian school system or of equivalent schooling; and
 - (ii) in any case — for which 1 year of full-time study, or the equivalent period of part-time study, is required; or
- (b) a formal educational qualification that is of an equivalent standard awarded by an educational institution outside Australia.

degree means:

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- (a) a formal educational qualification awarded by an Australian educational institution as a degree or a postgraduate diploma for which:
 - (i) the entry level to the course leading to the qualification is:
 - (A) in the case of a bachelor's degree — satisfactory completion of year 12 in the Australian school system or of equivalent schooling; and
 - (B) in the case of a master's degree — satisfactory completion of a bachelor's degree awarded at an Australian tertiary educational institution or of an equivalent award; and
 - (C) in the case of a doctoral degree — satisfactory completion of a bachelor's degree awarded with honours, or a master's degree, at an Australian tertiary educational institution or of an equivalent award; and
 - (D) in the case of a postgraduate diploma — satisfactory completion of a bachelor's degree or diploma awarded at an Australian tertiary educational institution or of an equivalent award; and
 - (ii) in the case of a bachelor's degree, not less than 3 years of full-time study, or the equivalent period of part-time study, is required; or
- (b) a formal educational qualification that is of an equivalent standard awarded by an educational institution outside Australia.

diploma means:

- (a) a formal educational qualification awarded by an Australian educational institution as a diploma for which:
 - (i) the entry level to the course leading to the qualification is satisfactory completion of year 12 in the Australian school system or of equivalent schooling; and
 - (ii) 3 years of full-time study, or the equivalent period of part-time study, is required; or

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- (b) a formal educational qualification that is of an equivalent standard awarded by an educational institution outside Australia.

professional-equivalent occupation means an occupation specified by an instrument in writing for this definition as a professional-equivalent occupation.

priority occupation means an occupation specified by an instrument in writing for this definition as a priority occupation.

relevant Australian authority means:

- (a) Education, or a body appointed in writing by Education to assess educational qualifications or work experience; or
- (b) the Department of Employment and Workplace Relations; or
- (c) if the circumstances of a case preclude an authority referred to in paragraph (a) or (b) from making an assessment, the Minister.

technical-equivalent occupation means an occupation specified by an instrument in writing for this definition as a technical-equivalent occupation.

trade certificate means:

- (a) an Australian trade qualification obtained as a result of the completion of:
- (i) an indentured apprenticeship; or
 - (ii) a training contract;
- that is required by State or Territory industrial training legislation or a relevant Federal, State or Territory industrial award and involves:
- (iii) part-time formal training at a technical college or a college of technical and further education; and
 - (iv) employment within the meaning of:
 - (A) an industrial award under a law of the Commonwealth or of a State or Territory; or
 - (B) a law of a State or Territory dealing with commercial or industrial training; or
- (b) a qualification obtained outside Australia that is of an equivalent standard.

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usual occupation means an occupation that the applicant has engaged in for gain or reward for a continuous period of at least 6 months during the period of 2 years immediately preceding the relevant application for a visa.

- (6) In Part 4 of Schedule 6:
- (a) a reference to adoption is a reference to an adoption occurring before the person adopted turned 18; and
 - (b) a reference to a step-relationship is a reference to a step-relationship in which the applicant and the relevant step-relative of the applicant have been members of the same family unit for a reasonable period.

2.26A Prescribed qualifications and number of points for skilled permanent visas and Skilled — Independent Regional (Provisional) (Class UX) visa

- (1) This regulation applies to an applicant for any of the following visas:
- (a) a Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (b) a Skilled — Independent (Migrant) (Class BN) visa;
 - (c) a Skilled — New Zealand Citizen (Residence) (Class DB) visa;
 - (d) a Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (e) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (f) a Skilled — Independent Regional (Provisional) (Class UX) visa.
- (2) For subsection 93 (1) of the Act (which deals with determination of an applicant's points score):
- (a) each qualification specified in column 2 of an item in Part 1, 2, 3, 4, 5, 6, 7, 8 or 10 of Schedule 6A is prescribed as a qualification in relation to the grant, to the applicant, of:
 - (i) a Subclass 136 (Skilled — Independent) visa; or
 - (ii) a Subclass 137 (Skilled — State/Territory-nominated Independent) visa; or

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- (iii) a Subclass 861 (Skilled — Onshore Independent New Zealand Citizen) visa; or
 - (iv) a Subclass 880 (Skilled — Independent Overseas Student) visa; and
 - (b) each qualification specified in column 2 of an item in Part 1, 2, 3, 4, 5, 6, 7, 8, 9 or 10 of Schedule 6A is prescribed as a qualification in relation to the grant, to the applicant, of:
 - (i) a Subclass 138 (Skilled — Australian-sponsored) visa; or
 - (ii) a Subclass 862 (Skilled — Onshore Australian-sponsored New Zealand Citizen) visa; or
 - (iii) a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa; and
 - (c) each qualification specified in column 2 of an item in Part 1, 2, 3, 4, 5, 6, 7, 8, 9A or 10 of Schedule 6A is prescribed as a qualification in relation to the grant, to the applicant, of a Subclass 495 (Skilled — Independent Regional (Provisional)) visa.
- (3) The number of points prescribed for a qualification specified in column 2 in an item in Schedule 6A is specified in column 3 in the item.
- (4) For subsection 93 (1) of the Act, the Minister:
 - (a) must not give the applicant a prescribed number of points for more than 1 prescribed qualification in each Part of Schedule 6A; and
 - (b) must give the applicant only the number of points applicable to the prescribed qualification that meets the applicant's circumstances and for which the prescribed number of points is the highest for any such prescribed qualification; and
 - (c) must not give the applicant a prescribed number of points for item 6A12 or 6A13 in Part 1 of Schedule 6A unless:
 - (i) in the case of item 6A12 — the applicant is assessed by the relevant assessing authority as holding a degree that is equivalent to a degree of an Australian tertiary educational institution; and

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- (ii) in the case of item 6A13 — the applicant is assessed by the relevant assessing authority as holding a diploma or advanced diploma that is equivalent to a diploma or advanced diploma of an Australian educational institution.
- (5) The Minister may determine that the applicant is proficient in English to a level equivalent to that mentioned in an item in Part 3 of Schedule 6A, if the Minister determines that it is not reasonably practicable, or not necessary, for the applicant to be tested using the IELTS test.
- (5AA) In working out the number of points to be given to an applicant for Part 7 of Schedule 6A, the Minister must have regard to whichever of the following are more favourable to the applicant:
 - (a) the occupations that were specified as migration occupations in demand at the time the application was made;
 - (b) the occupations that are specified as migration occupations in demand at the time the assessment mentioned in subsection 93 (1) of the Act is made.
- (5A) For Part 8 of Schedule 6A, if:
 - (a) an application for a visa was made, but not finally determined (within the meaning of subsection 5 (9) of the Act), before 1 November 2005; and
 - (b) the Minister made an assessment under subsection 93 (1) of the Act in relation to the application before 1 November 2005;

the prescribed number of points for the purposes of that assessment is taken to be the sum of the number of points included in the assessment and the number of points (if any) to which the applicant would have been entitled, under item 6A82 of Part 8 of Schedule 6A, if that item had been in force at the time of the assessment.

Note Item 6A82 of Part 8 of Schedule 6A commenced on 1 November 2005.

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(6) In Part 6 of Schedule 6A:

degree means a formal educational qualification, under the Australian Qualifications Framework, awarded by an Australian educational institution as a degree or a postgraduate diploma for which:

- (a) the entry level to the course leading to the qualification is:
 - (i) in the case of a bachelor's degree — satisfactory completion of year 12 in the Australian school system or of equivalent schooling; and
 - (ii) in the case of a master's degree — satisfactory completion of a bachelor's degree awarded at an Australian tertiary educational institution or of an equivalent award; and
 - (iii) in the case of a doctoral degree — satisfactory completion of a bachelor's degree awarded with honours, or a master's degree, at an Australian tertiary educational institution or of an equivalent award; and
 - (iv) in the case of a postgraduate diploma — satisfactory completion of a bachelor's degree or diploma awarded at an Australian tertiary educational institution or of an equivalent award; and
- (b) in the case of a bachelor's degree, not less than 3 years of full-time study, or the equivalent period of part-time study, is required.

diploma means:

- (a) an associate diploma, or a diploma, within the meaning of the Register of Australian Tertiary Education (as current when this definition commences), that is awarded by a body authorised to award diplomas of those kinds; or
- (b) a diploma, or an advanced diploma, under the Australian Qualifications Framework, that is awarded by a body authorised to award diplomas of those kinds.

trade qualification means:

- (a) an Australian trade qualification obtained as a result of the completion of:
 - (i) an indentured apprenticeship; or

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- (ii) a training contract;
that is required by State or Territory industrial training legislation or a relevant Federal, State or Territory industrial award and involves:
 - (iii) part-time formal training at a technical college or a college of technical and further education; and
 - (iv) employment within the meaning of:
 - (A) an industrial award under a law of the Commonwealth or of a State or Territory; or
 - (B) a law of a State or Territory dealing with commercial or industrial training; or
 - (b) a qualification, under the Australian Qualifications Framework, of at least the Certificate III level for a skilled occupation in Major Group IV in the Australian Standard Classification of Occupations that is:
 - (i) published by AusInfo; and
 - (ii) current when this definition commences.
- (7) In Parts 4, 5 and 8 of Schedule 6A:
employed means engaged in an occupation for remuneration for at least 20 hours weekly.
- (7A) In Parts 5, 6 and 10 of Schedule 6A:
course of study means a full-time registered course of study.
Note ***registered course*** is defined in regulation 1.03.
- (8) In Part 9 of Schedule 6A:
 - (a) a reference to adoption is a reference to an adoption occurring before the adopted person turned 18; and
 - (b) a reference to a step-relationship is a reference to a step-relationship in which the applicant, or the applicant's spouse or de facto partner, and the relevant step-relative of the applicant, or of the applicant's spouse or de facto partner, have been members of the same family unit for a reasonable period.

**2.26AA Prescribed qualifications and number of points for
General Skilled Migration visas**

- (1) This regulation applies to an applicant for a General Skilled Migration visa.
- (2) Subject to subregulations (2A) and (2B), for subsection 93 (1) of the Act (which deals with determination of an applicant's points score) each qualification in column 2 of an item in Parts 6B.1 to 6B.12 of Schedule 6B is prescribed as a qualification in relation to the grant, to the applicant, of any of the following visas:
 - (a) a Subclass 175 (Skilled — Independent) visa;
 - (b) a Subclass 176 (Skilled — Sponsored) visa;
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa;
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
 - (e) a Subclass 885 (Skilled — Independent) visa;
 - (f) a Subclass 886 (Skilled — Sponsored) visa.
- (2A) For subregulation (2), if, apart from this subregulation, 1 or more qualifications in:
 - (a) column 2 of Part 6B.11 of Schedule 6B; and
 - (b) column 2 of Part 6B.12 of Schedule 6B;would apply in determining an applicant's points score, then only 1 of those items may apply in determining the points score in relation to any application for a visa.
- (2B) In applying an item under subregulation (2A), the item that provides the greater or greatest points score is to be used.
- (3) The number of points prescribed for a qualification specified in column 2 of an item of Schedule 6B is specified in column 3 of the item.
- (4) For subsection 93 (1) of the Act, the Minister:
 - (a) must not give the applicant a prescribed number of points for more than 1 prescribed qualification in each Part of Schedule 6B; and

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- (b) must give the applicant (if the applicant's circumstances satisfy more than 1 prescribed qualification) the prescribed number of points that is the highest for any such prescribed qualification; and
 - (c) must not give the applicant a prescribed number of points for item 6B12 or 6B13 in Part 6B.1 of Schedule 6B unless:
 - (i) in the case of item 6B12 — the applicant is assessed by the relevant assessing authority as holding a degree that is equivalent to a degree of an Australian tertiary educational institution; and
 - (ii) in the case of item 6B13 — the applicant is assessed by the relevant assessing authority as holding a diploma or advanced diploma that is equivalent to a diploma or advanced diploma of an Australian educational institution.
- (5) In working out the number of points to be given to an applicant for Part 6B.7 of Schedule 6B, the Minister must have regard to whichever of the following is more favourable to the applicant:
- (a) the occupations that were specified as migration occupations in demand at the time the application was made;
 - (b) the occupations that are specified as migration occupations in demand at the time the assessment mentioned in subsection 93(1) of the Act is made.
- (6) In Schedule 6B:
- degree* has the meaning given by subregulation 2.26A (6).
 - employed* has the meaning given by subregulation 2.26A (7).
 - professional year* means a course specified by the Minister in an instrument in writing for this definition.

2.26B Relevant assessing authorities

- (1) Subject to subregulation (1A), the Minister may, by an instrument in writing for this subregulation, specify a person or body as the relevant assessing authority for:
 - (a) a skilled occupation; and

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- (b) one or more countries;
for the purposes of an application for a skills assessment made by a resident of one of those countries.
- (1A) The Minister must not make an instrument under subregulation (1) unless the person or body has been approved in writing as the relevant assessing authority for the occupation by:
 - (a) the Education Minister; or
 - (b) the Employment Minister.
- (2) The standards against which the skills of a person are assessed by a relevant assessing authority for a skilled occupation must be the standards set by the relevant assessing authority for the skilled occupation.

2.26C Designated securities

- (1) The Minister may, by an instrument in writing for this subregulation, specify a security issued by an Australian State or Territory government authority as a security in which an investment is a designated security for the purposes of Part 8 of Schedule 6A.
- (2) The Minister must not specify a security unless:
 - (a) an investment in the security matures in not less than 1 year from its date of issue; and
 - (b) repayment of principal is guaranteed by the issuing authority; and
 - (c) an investment in the security cannot be transferred or redeemed before maturity except by operation of law or under other conditions acceptable to the Minister; and
 - (d) investment in the security is open to the general public at commercially competitive rates of return; and
 - (e) the Minister is satisfied that the Commonwealth will not be exposed to any liability as a result of an investment in the security by a person.

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2.27 Combination of scores — points system: applicants for Skilled – Australian-linked (Migrant) (Class AJ) visas

If:

- (a) an applicant to whom regulation 2.26 applies (in this regulation called *the applicant*) does not receive the pass mark or pool mark (as the case requires) under that regulation; and
- (b) the spouse or de facto partner of the applicant is an applicant for a visa of the same class;
the applicant is taken to have received the pass mark or pool mark (as the case requires) if the sum of:
 - (c) the points which the spouse or de facto partner could receive under Parts 1, 2 and 3 of Schedule 6; and
 - (d) the points which the applicant receives under Parts 4, 5, 6 and 7 of Schedule 6;is equal to, or exceeds the pass mark or pool mark (as the case requires).

2.27A Combination of scores — points system: applicants for skilled permanent visas

- (1) This regulation applies if:
 - (a) an applicant for a Skilled — Australian-sponsored (Class BQ) or Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa, or an applicant for a Skilled — New Zealand Citizen (Residence) (Class DB) visa who has been sponsored, (the *primary applicant*) does not receive the pass or pool mark under regulation 2.26A; and
 - (b) the spouse or de facto partner of the primary applicant is also an applicant for a visa of that class; and
 - (c) the applicant's visa application was made before 1 October 2006.
- (2) The primary applicant is taken to have received the pass or pool mark if the sum of the following points equals or exceeds the pass or pool mark:

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- (a) the points that the spouse or de facto partner could receive under Parts 1, 2, 3, 4, 5, 6, 7, 8 and 10 of Schedule 6A;
- (b) the points that the primary applicant receives under Part 9 of Schedule 6A.

Note Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, s 96).

2.27C Skilled occupation in Australia

In determining whether an applicant satisfies a criterion that the applicant has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:

- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
- (b) complied with the conditions of that visa.

2.27D Study in Australia

In determining whether an applicant satisfies a criterion for the grant of a General Skilled Migration visa that the applicant has studied in Australia for a certain period, a period of study cannot be counted unless the applicant:

- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 (Bridging A) visa; or
 - (iii) a Subclass 020 (Bridging B) visa;authorising him or her to study during that period; and
- (b) complied with the conditions of that visa.

2.28 Notice of putting application aside

- (1) If the Minister puts an application aside under paragraph 94 (3) (a) of the Act, he or she must notify the applicant in writing that he or she has done so.

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- (2) A notification under subregulation (1) must set out:
- (a) the decision of the Minister; and
 - (b) the reason for the decision; and
 - (c) that the decision can be reviewed; and
 - (d) the time in which an application for review may be made; and
 - (e) who can apply for the review; and
 - (f) where the application for review can be made.

2.29A Application of Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa from 1 July 2003

Paragraphs 1128BA (3) (i) and (j) in Schedule 1, as in force immediately before 1 July 2003, continue to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for:
 - (i) a Graduate — Skilled (Temporary) (Class UQ) visa; or
 - (ii) a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;

on or after 1 July 2003 and before 1 April 2004.

Note Item 1128BA was amended with effect from 1 July 2003. The two versions of item 1128BA, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29B Application of Skilled — Independent Overseas Student (Residence) (Class DD) visa from 1 July 2003

Paragraphs 1128CA (3) (j) and (l) in Schedule 1, as in force immediately before 1 July 2003, continue to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and

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- (b) who applies for:
 - (i) a Graduate — Skilled (Temporary) (Class UQ) visa;
or
 - (ii) a Skilled — Independent Overseas Student (Residence) (Class DD) visa;on or after 1 July 2003 and before 1 April 2004.

Note Item 1128CA was amended with effect from 1 July 2003. The two versions of item 1128CA, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29C Application of Graduate — Skilled (Temporary) (Class UQ) visa from 1 July 2003

Paragraph 1212A (3) (h) in Schedule 1, as in force immediately before 1 July 2003, continues to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Graduate — Skilled (Temporary) (Class UQ) visa on or after 1 July 2003 and before 1 April 2004.

Note Item 1212A was amended with effect from 1 July 2003. The two versions of item 1212A, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29D Application of Subclass 134 (Skill Matching) visa from 1 July 2003

Subclauses 134.215 (2) and 134.222A (2) in Schedule 2, as in force immediately before 1 July 2003, continue to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Skill Matching (Migrant) (Class BR) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 134 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

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2.29E Application of Subclass 136 (Skilled — Independent) visa from 1 July 2003

Subclauses 136.213 (2) and 136.223A (2) in Schedule 2, as in force immediately before 1 July 2003, continue to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Skilled — Independent (Migrant) (Class BN) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 136 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29F Application of Subclass 137 (Skilled — State/Territory-nominated Independent) visa from 1 July 2003

Subclauses 137.214 (2) and 137.221A (2) in Schedule 2, as in force immediately before 1 July 2003, continue to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Skilled — Independent (Migrant) (Class BN) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 137 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29G Application of Subclass 138 (Skilled — Australian-sponsored) visa from 1 July 2003

Subclauses 138.216 (2) and 138.225A (2) in Schedule 2, as in force immediately before 1 July 2003, continue to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and

- (b) who applies for a Skilled — Australian-sponsored (Migrant) (Class BQ) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 138 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29H Application of Subclass 139 (Skilled — Designated Area-sponsored) visa from 1 July 2003

Subclauses 139.217 (2) and 139.225A (2) in Schedule 2, as in force immediately before 1 July 2003, continue to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Skilled — Australian-sponsored (Migrant) (Class BQ) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 139 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29I Application of Subclass 861 (Skilled — Onshore Independent New Zealand Citizen) visa from 1 July 2003

Subclause 861.213 (2) in Schedule 2, as in force immediately before 1 July 2003, continues to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Skilled — New Zealand Citizen (Residence) (Class DB) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 861 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

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2.29J Application of Subclass 862 (Skilled — Onshore Australian-sponsored New Zealand Citizen) visa from 1 July 2003

Subclause 862.216 (2) in Schedule 2, as in force immediately before 1 July 2003, continues to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Skilled — New Zealand Citizen (Residence) (Class DB) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 862 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

2.29K Application of Subclass 863 (Skilled — Onshore Designated Area-sponsored New Zealand Citizen) visa from 1 July 2003

Subclause 863.217 (2) in Schedule 2, as in force immediately before 1 July 2003, continues to apply in relation to a person:

- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) who applies for a Skilled — New Zealand Citizen (Residence) (Class DB) visa on or after 1 July 2003 and before 1 April 2004.

Note Part 863 in Schedule 2 was amended with effect from 1 July 2003. The two versions of the Part, before and after 1 July 2003, have substantially different effects, and the purpose of this regulation is to ensure that certain persons are not disadvantaged by the effect of the new version.

Division 2.7 Assurances of support

Subdivision 2.7.1 Assurances of support given in relation to applications lodged before 20 December 1991

2.30 Interpretation

In this Subdivision:

assurance of support means:

- (a) an assurance of support given under the Migration (1989) Regulations, the Migration (1993) Regulations or these Regulations in relation to an application lodged before 20 December 1991; or
- (b) a maintenance guarantee that:
 - (i) was given on or before 18 December 1989 under regulations that were in force under the Act or under any of the Acts repealed by the Act; and
 - (ii) is expressed, or otherwise purports, to have effect after 19 December 1991.

2.31 Form of certain assurances of support

An assurance of support given under this Subdivision must be in the form approved by the Minister.

2.32 Duration of assurances of support

An assurance of support that:

- (a) was given under the Migration (1989) Regulations before 20 December 1991 and, at the end of 19 December 1991, had been in force for less than 2 years; or
- (b) was given under Division 1 of Part 6 of the Migration (1989) Regulations on or after 20 December 1991; or
- (c) was given under Division 1 of Part 5 of the Migration (1993) Regulations; or
- (d) is given under this Subdivision;
ceases to have effect at the end of 2 years after:

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- (e) the day when the applicant enters Australia; or
 - (f) the grant of the relevant visa; or
 - (g) if he or she is granted an entry permit before 1 September 1994, the grant of that entry permit;
- whichever happens latest.

2.33 Effect of assurance of support

If, while an assurance of support has effect after 19 December 1991 in respect of a person, that person has received support in the form of:

- (a) a job search allowance payable under Part 2.11 of the *Social Security Act 1991*; or
- (b) a newstart allowance payable under Part 2.12 of that Act; or
- (c) a special benefit payable under Part 2.15 of that Act; or
- (d) a widow allowance under Part 2.8A of that Act; or
- (e) a PP (partnered) under Part 2.10 of that Act; or
- (f) a mature age allowance under Part 2.12A or 2.12B of that Act; or
- (g) a partner allowance under Part 2.15A of that Act; or
- (h) a parenting allowance under Part 2.18 of that Act; or
- (i) a youth training allowance under Part 8 of the *Student and Youth Assistance Act 1973*; or
- (j) a youth allowance under Part 2.11 of the *Social Security Act 1991*; or
- (k) an austudy payment under Part 2.11A of that Act; or
- (l) a crisis payment under Part 2.23A of the *Social Security Act 1991*;

an amount equal to the value of the support provided (less any amount paid in respect of the support by or on behalf of that person to the Commonwealth) is a debt due and payable to the Commonwealth by the person who gave the assurance, and may be recovered by action in a Court of competent jurisdiction.

2.34 Earlier liabilities not affected

Nothing in this Subdivision affects any liability incurred under, or in respect of, an assurance of support before 20 December 1991.

Subdivision 2.7.2 Assurances of support given in relation to applications lodged after 19 December 1991 and accepted by the Minister before 1 July 2004

2.35 Interpretation

In this Subdivision:

assurance of support means an assurance of support that is given in relation to an application lodged after 19 December 1991 and accepted by the Minister before 1 July 2004.

required assurance means an assurance of support that is an unconditional requirement prescribed in Schedule 2 for the grant of a visa.

relevant visa, in relation to an assurance of support, means:

- (a) the visa for the grant of which the giving of the assurance of support was required; or
- (b) the entry permit or entry visa for the grant of which under the Migration (1989) Regulations or the Migration (1993) Regulations the giving of the assurance of support was required; or
- (c) the entry permit the grant of which on entry under the Migration (1989) Regulations or the Migration (1993) Regulations was a consequence of the grant of a travel-only visa for the grant of which the giving of the assurance of support was required.

2.36 Form and duration of assurance of support

- (1) An assurance of support:
 - (a) must be on the approved form; and

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- (b) if the application to which the assurance relates is an application for a Contributory Parent (Migrant) (Class CA) or Contributory Aged Parent (Residence) (Class DG) visa — has effect for 10 years from the later of:
 - (i) the day when the person enters Australia; or
 - (ii) the day when the person is granted the relevant visa; and
 - (c) in any other case — has effect for 2 years from the later of:
 - (i) the day when the person enters Australia; or
 - (ii) the day when the person is granted the relevant visa.
- (2) A required assurance is taken not to have been given unless the bond (if any) required by regulation 2.39 in relation to it has been lodged.

2.37 Persons in respect of whom assurance of support may be given

- (1) Subject to subregulation (2), a person must not give assurances of support having effect at the same time in respect of more than 2 persons.
- (2) A person does not count for the purposes of subregulation (1) if that person:
 - (a) has not turned 18; and
 - (b) is included in an assurance of support given in respect of another person.

2.38 Liability of person giving assurance of support

- (1) If a person receives support in the form of:
 - (a) a job search allowance payable under Part 2.11 of the *Social Security Act 1991*; or
 - (b) a newstart allowance payable under Part 2.12 of that Act; or
 - (c) a special benefit payable under Part 2.15 of that Act; or

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- (d) a widow allowance under Part 2.8A of that Act; or
- (e) a partner allowance under Part 2.15A of that Act; or
- (f) a parenting allowance under Part 2.18 of that Act; or
- (g) a youth training allowance under Part 8 of the *Student and Youth Assistance Act 1973*; or
- (h) a PP (partnered) under Part 2.10 of the *Social Security Act 1991*; or
- (i) a mature age allowance under Part 2.12A or 2.12B of that Act; or
- (j) a youth allowance under Part 2.11 of that Act; or
- (k) an austudy payment under Part 2.11A of that Act; or
- (l) a crisis payment under Part 2.23A of the *Social Security Act 1991*;

and an assurance of support has effect in respect of the person when he or she receives the support, the person who gave the assurance is liable, subject to this regulation, to pay to the Commonwealth the amount of the support.

- (2) A person is not liable to pay an amount that would otherwise be payable under subregulation (1) in respect of a required assurance until the Commonwealth has taken all reasonable steps to enforce the bond lodged in respect of the assurance.
- (3) An amount payable under subregulation (1) is reduced by:
 - (a) any amount obtained by the Commonwealth under the bond that has not been applied to reduce a person's liability to the Commonwealth; and
 - (b) any amount paid to the Commonwealth in respect of the support.

2.39 Bond (required assurances)

- (1) A person who gives a required assurance in respect of an applicant for a visa who has turned 18 must lodge with the Minister a bond in accordance with this regulation.
- (2) The bond must be lodged before a decision is made on the application to which the required assurance relates.

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- (3) The bond must be in a form approved by the Minister that secures the payment to the Commonwealth, on demand, of any amount (up to the amount of the bond) due to the Commonwealth under regulation 2.38 in respect of:
 - (a) the applicant; and
 - (b) if the assurance has effect also in relation to a person who has not turned 18, that person.

- (4) The amount of a bond is:
 - (a) unless paragraph (b) or (c) applies — \$3 500; or
 - (b) unless paragraph (c) applies, if the application to which the assurance relates depends on another person holding or being granted a visa of the same class as that sought in the application — \$1 500; or
 - (c) if the application to which the assurance relates is an application for a Contributory Parent (Migrant) (Class CA) or Contributory Aged Parent (Residence) (Class DG) visa:
 - (i) for an applicant seeking to satisfy the primary criteria for grant of the visa — \$10 000; or
 - (ii) for an applicant seeking to satisfy the secondary criteria for grant of the visa — \$4 000.

Division 2.8 Special purpose visas

2.40 Persons having a prescribed status — special purpose visas (Act, s 33 (2) (a))

Persons who hold prescribed status

- (1) For the purposes of paragraph 33 (2) (a) of the Act (which deals with persons who are taken to have been granted special purpose visas), and subject to this regulation, each non-citizen who is included in one of the following classes of person has a prescribed status:
 - (a) members of the Royal Family;
 - (b) members of the Royal party;
 - (c) guests of Government;

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- (d) SOFA forces members;
- (e) SOFA forces civilian component members;
- (f) Asia-Pacific forces members;
- (g) Commonwealth forces members;
- (h) foreign armed forces dependants;
- (j) foreign naval forces members;
- (l) airline positioning crew members;
- (m) airline crew members;
- (n) transit passengers who belong to a class of persons specified in a Gazette Notice for the purposes of this paragraph;
- (p) persons visiting Macquarie Island;
- (q) children born in Australia:
 - (i) of a mother who at the time of the birth holds a special purpose visa, if only the mother is in Australia at that time; or
 - (ii) to parents both of whom, at the time of the birth, hold special purpose visas, if at that time both parents are in Australia;
- (t) Indonesian traditional fishermen visiting the Territory of Ashmore and Cartier Islands.

Note the terms used in paragraphs (1)(a) to (n) are defined in regulation 1.03.

Armed forces members

- (2) A person included in a class of persons specified in paragraph (1) (d), (e), (f), (g) or (j) has a prescribed status only while he or she is not absent without leave.

Armed forces dependants

- (3) A person included in a class of persons specified in paragraph (1) (h) has a prescribed status only while the person of whom he or she is a spouse or de facto partner, or on whom he or she is dependent, is not absent without leave.

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Persons must not work in Australia

- (4) A person included in a class of persons specified in paragraph (1) (d), (e), (f), (g), (j), (l) or (m) has a prescribed status only while he or she does not perform work in Australia (other than work of a kind that he or she normally performs during the course of his or her duties as a person of a kind referred to in the relevant paragraph).

Foreign naval forces members

- (5) A person included in a class of persons specified in paragraph (1) (j) has a prescribed status if and only if the vessel on which he or she enters the migration zone has the prior approval of the Australian government to do so.

Airline positioning crew members

- (9) A person included in a class of persons specified in paragraph (1) (l) has a prescribed status for the period of 5 working days beginning when he or she disembarks from the aircraft on which he or she travelled to Australia if and only if he or she:
- (a) holds a passport that is in force; and
 - (b) carries a letter from his or her employer certifying aircrew status and setting out the purpose of the person's travel to Australia and the arrangements for the person to leave Australia.

Airline crew members

- (10) A person included in a class of persons mentioned in paragraph (1) (m) has a prescribed status for 30 days, beginning when he or she disembarks from the aircraft on which he or she travelled to Australia, if and only if he or she:
- (a) holds a passport that is in force; and
 - (b) holds:
 - (i) a valid airline identity card issued by his or her employer; or

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- (ii) for a person who is an aircraft safety inspector:
 - (A) a valid government identity document showing that he or she is employed by a foreign government; or
 - (B) an ICAO Safety Inspector Certificate; and
- (c) is included in a list of members of the crew of the aircraft provided to Immigration by or for the international air carrier that operates the aircraft.

Transit passengers

- (11) A person included in a class of persons specified in paragraph (1) (n) has a prescribed status only while he or she remains in the airport transit lounge.

Macquarie Island visitors

- (12) A person included in a class of persons specified in paragraph (1) (p) has a prescribed status:
 - (a) only while he or she remains on Macquarie Island; and
 - (b) only if the Secretary of the Department of the Environment and Land Management of the State of Tasmania has granted written permission in advance for the person to visit that Island.

Children born in Australia

- (13) A person included in a class of persons specified in paragraph (1) (q) has a prescribed status:
 - (a) in the case of a child referred to in subparagraph (1) (q) (i) — until the child's mother ceases to have a prescribed status; or
 - (b) in the case of a child referred to in subparagraph (1) (q) (ii) — until whichever of the child's parents last ceases to have a prescribed status ceases to have that status.

Indonesian traditional fishermen

- (16) A person included in the class of persons specified in paragraph (1) (t) has a prescribed status only if the person:

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- (a) is a traditional fisherman within the meaning of the Memorandum of Understanding made at Jakarta on 7 November 1974 between Australia and the Republic of Indonesia regarding the operations of Indonesian fishermen in areas of the Australian Exclusive Fishing Zone and Continental Shelf; and
- (b) when visiting the Territory of Ashmore and Cartier Islands, is engaged in an activity described in the Memorandum of Understanding, as varied by the 1989 Practical Guidelines for Implementation contained in the Annex to the Agreed Minutes of Meeting between officials of Australia and Indonesia on fisheries of 29 April 1989.

Note The Memorandum, as varied by the Guidelines, has the general effect of accommodating a traditional fisherman engaged in taking fish or marine sedentary organisms by a method that has been a traditional method over decades of time, who is:

- (a) actually taking fish or marine sedentary organisms; or
- (b) sheltering within the territorial sea of the Territory; or
- (c) on shore at the island known as West Islet, for the purpose only of getting fresh water.

Expressly excluded is fishing using a motorised, or motor-assisted, vessel or method.

Division 2.9 Cancellation or refusal to grant visas

Subdivision 2.9.1 Cancellation under Subdivision C of Division 3 of Part 2 of the Act

Note The obligations of a visa holder under Subdivision C of Division 3 of Part 2 of the Act are: to supply correct information on his or her application form (s 101), including answers on passenger cards (s 102); not to give bogus documents (s 103); to notify changes in circumstances (s 104); and, if incorrect information is given, to correct it (s 105). The obligation is not affected by other sources of information being available (s 106). If the Minister gives a visa holder a notice under s 107 (1) stating that there may have been non-compliance and asking the visa holder for a response, the answers must be correct (s 107 (2)).

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2.41 Whether to cancel visa — incorrect information or bogus document (Act, s 109 (1) (c))

For the purposes of paragraph 109 (1) (c) of the Act, the following circumstances are prescribed:

- (a) the correct information;
- (b) the content of the genuine document (if any);
- (c) the likely effect on a decision to grant a visa or immigration clear the visa holder of the correct information or the genuine document;
- (d) the circumstances in which the non-compliance occurred;
- (e) the present circumstances of the visa holder;
- (f) the subsequent behaviour of the visa holder concerning his or her obligations under Subdivision C of Division 3 of Part 2 of the Act;
- (g) any other instances of non-compliance by the visa holder known to the Minister;
- (h) the time that has elapsed since the non-compliance;
- (j) any breaches of the law since the non-compliance and the seriousness of those breaches;
- (k) any contribution made by the holder to the community.

Note Under s. 109 of the Act, the Minister may cancel a visa if there was non-compliance by the holder of a kind set out in Subdivision C of Division 3 of Part 2 of the Act. The Minister is to have regard to the prescribed circumstances in considering whether to cancel the visa.

2.42 Notice of decision to cancel visa under s 109

- (1) If the Minister cancels a visa under section 109 of the Act, the Minister must notify the former holder of the visa in writing that the visa has been cancelled.
- (2) A notification under subregulation (1) must set out the ground for the cancellation.

Note 1 Regulation 2.55 applies to the giving of a document relating to:

- the proposed cancellation of a visa under the Act; or
- the cancellation of a visa under the Act; or
- the revocation of the cancellation of a visa under the Act.

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Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

Subdivision 2.9.2 Cancellation generally

2.43 Grounds for cancellation of visa (Act, s 116)

- (1) For the purposes of paragraph 116 (1) (g) of the Act (which deals with circumstances in which the Minister may cancel a visa), the grounds prescribed are:
- (a) that the Foreign Minister has personally determined that:
- (i) in the case of a visa other than a relevant visa — the holder of the visa is a person whose presence in Australia:
 - (A) is, or would be, contrary to Australia's foreign policy interests; or
 - (B) may be directly or indirectly associated with the proliferation of weapons of mass destruction; or
 - (ii) in the case of a relevant visa — the holder of the visa is a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction;

Note A **relevant visa** is explained in subregulation (3).

- (b) that the holder of the visa has been assessed by the Australian Security Intelligence Organisation to be directly or indirectly a risk to security, within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*;
- (d) in the case of a visa granted before 1 September 1994 that:
- (i) was continued in force on and after 1 September 1994 as a Transitional (Temporary) visa under the Migration Reform (Transitional Provisions) Regulations; and
 - (ii) allowed multiple entries to Australia;
- that, at some time before 1 September 1994, the holder exceeded the period of stay in Australia permitted by the visa;

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- (e) in the case of:
- (i) the holder of an Electronic Travel Authority (Class UD) visa who is under the age of 18 years; or
 - (ii) the holder of a Long Stay (Visitor) (Class TN) visa, that was applied for using form 601E, who is under the age of 18 years; or
 - (iii) the holder of a Tourist (Class TR) visa, that was applied for using form 601E, who is under the age of 18 years; or
 - (iv) the holder of a Visitor (Class TV) visa who is under the age of 18 years;
- that either:
- (v) both of the following apply:
 - (A) the law of the visa holder's home country did not permit the removal of the visa holder;
 - (B) at least 1 of the persons who could lawfully determine where the additional applicant is to live did not consent to the grant of the visa; or
 - (vi) the grant of the visa was inconsistent with any Australian child order in force in relation to the visa holder;
- (f) in the case of:
- (i) the holder of an Electronic Travel Authority (Class UD) visa who is under the age of 18 years and is not accompanied by his or her parent or guardian; or
 - (ii) the holder of a Long Stay (Visitor) (Class TN) visa, that was applied for using a form 601E, who:
 - (A) is under the age of 18 years; and
 - (B) is not accompanied by his or her parent or guardian; or
 - (iii) the holder of a Tourist (Class TR) visa, that was applied for using a form 601E, who:
 - (A) is under the age of 18 years; and
 - (B) is not accompanied by his or her parent or guardian; or

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- (iv) the holder of a Visitor (Class TV) visa who is under the age of 18 years and is not accompanied by his or her parent or guardian;
that the holder of that visa does not have adequate funds, or adequate arrangements have not been made, for the holder's maintenance, support and general welfare during the holder's proposed visit in Australia;
- (g) in the case of a temporary visa held by a person other than a visa holder mentioned in paragraph (h) — that the visa holder asks the Minister, in writing, to cancel the visa;
- (h) in the case of a temporary visa held by a person who is under the age of 18 years and is not a spouse, a former spouse or engaged to be married — that:
 - (i) a person who is at least 18 years of age, and who can lawfully determine where the visa holder is to live, asks the Minister, in writing, to cancel the visa; and
 - (ii) the Minister is satisfied that there is no compelling reason to believe that the cancellation of the visa would not be in the best interests of the visa holder;
- (i) in the case of the holder of:
 - (i) a Subclass 456 (Business (Short Stay)) visa; or
 - (ia) a Subclass 459 (Sponsored Business Visitor (Short Stay)) visa; or
 - (ii) a Subclass 956 (Electronic Travel Authority (Business Entrant — Long Validity)) visa; or
 - (iii) a Subclass 977 (Electronic Travel Authority (Business Entrant — Short Validity)) visa —that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to stay in, or visit, Australia temporarily for business purposes;
- (j) in the case of the holder of:
 - (i) a Subclass 676 (Tourist) visa; or
 - (ii) a Subclass 676 (Tourist (Short Stay)) visa; or
 - (iii) a Subclass 679 (Sponsored Family Visitor) visa; or

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- (iv) a Subclass 686 (Tourist (Long Stay)) visa;
that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit, or remain in, Australia as a visitor temporarily for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the visa holder or for another purpose, other than a purpose related to business or medical treatment;
- (k) in the case of the holder of a Subclass 976 (Electronic Travel Authority (Visitor)) visa — that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to visit Australia temporarily for tourism purposes;
- (ka) in the case of a holder of a Subclass 651 (eVisitor) visa — that, despite the grant of the visa, the Minister is satisfied that the visa holder did not have, at the time of the grant of the visa, or has ceased to have, an intention only to stay in, or visit, Australia temporarily for the tourism or business purposes for which the visa was granted;
- (l) in the case of the holder of a Subclass 457 (Business (Long Stay)) visa who was granted the visa on the basis of being employed in Australia by a business sponsor, and in respect of whom there is a nomination of an activity under regulation 1.20G or 1.20GA — that the visa holder's current business sponsor:
- (i) has not complied, or is not complying, with the undertaking given by the business sponsor in accordance with approved form 1067, 1196 or 1196 (Internet); or
 - (ia) does not continue to satisfy the requirements for approval as a business sponsor; or
 - (ii) gave incorrect information to Immigration in relation to:
 - (A) the application (if any) under regulation 1.20C for approval as a business sponsor; or

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- (B) any other matter relating to the business sponsor;
 - (la) in the case of the holder of a Subclass 457 (Business (Long Stay)) visa who was granted the visa on the basis of being employed in Australia by a business sponsor, and in respect of whom there is a nomination of an activity under regulation 1.20GA — that the visa holder is living or working within an area specified in a Gazette Notice for this paragraph;
 - (lb) in the case of the holder of a Superyacht Crew (Temporary) (Class UW) visa — that the visa holder's sponsor has not complied, or is not complying, with the undertakings given by the sponsor in accordance with approved form 1366;
 - (m) that the Minister reasonably suspects that the holder of the visa has committed an offence under section 232A, 233, 233A, 234 or 236 of the Act;
 - (n) that:
 - (i) a certificate is in force under paragraph 271 (1) (l) of the Act, stating that a computer program was not functioning correctly; and
 - (ii) both of the following apply:
 - (A) the visa was granted at the time, or during the period, that is specified in the certificate;
 - (B) the grant of the visa is an outcome from the operation of that program, under an arrangement made under subsection 495A (1) of the Act, that is specified in the certificate;
 - (o) that the Minister reasonably suspects that the visa has been obtained as a result of the fraudulent conduct of any person.
- (2) For subsection 116 (3) of the Act, the circumstances in which the Minister must cancel a visa are:
- (a) in the case of a visa other than a relevant visa — each of the circumstances comprising the grounds set out in:
 - (i) sub-subparagraphs (1) (a) (i) (A) and (B); and
 - (ii) paragraph (1) (b); and

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- (aa) in the case of a relevant visa — the circumstance comprising the grounds set out in subparagraph (1) (a) (ii); and
- (b) in the case of a Student (Temporary) (Class TU) visa:
 - (i) that the Minister is satisfied that the visa holder has not complied with condition 8104 or 8105 (if the condition applies to the visa); or
 - (ii) that the Minister is satisfied that:
 - (A) the visa holder has not complied with condition 8202; and
 - (B) the non-compliance was not due to exceptional circumstances beyond the visa holder's control.

(3) In this regulation:

business sponsor means:

- (a) a person approved as a pre-qualified business sponsor, or a standard business sponsor, in accordance with regulation 1.20D or 1.20DA (whether or not the approval has ceased to have effect); or
- (b) a person (except a person mentioned in paragraph (a)) who has given an undertaking in accordance with approved form 1067.

relevant visa means a visa of any of the following subclasses:

- (aa) Subclass 050;
- (a) Subclass 200;
- (b) Subclass 201;
- (c) Subclass 202;
- (d) Subclass 203;
- (e) Subclass 204;
- (f) Subclass 447;
- (g) Subclass 449;
- (h) Subclass 451;
- (i) Subclass 785;
- (j) Subclass 786;
- (k) Subclass 866.

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2.44 Invitation to comment — response

- (1) For the purposes of subsection 121 (2) of the Act (which deals with the time in which a holder must give comments, other than at interview), the periods set out in subregulation (2) are prescribed.
- (2) The periods referred to in subregulation (1) begin when the visa holder is notified under subsection 119 (2), or receives an invitation under subsection 120 (2), as the case requires, and are:
 - (a) if the visa holder is in Australia — 5 working days; or
 - (b) if the visa holder is outside Australia:
 - (i) where the cancellation of his or her visa is being considered in Australia — 28 days; or
 - (ii) where the cancellation of his or her visa is being considered at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth in the country in which the visa holder is present — 5 working days; or
 - (iii) where the cancellation of his or her visa is being considered at a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth in another country than the country in which the visa holder is present — 28 days.
- (3) For the purposes of subsection 121 (4) of the Act (which deals with extension of time to give comments), 5 working days is prescribed.

Note 1 Regulation 2.55 applies to the giving of a document relating to:

- the proposed cancellation of a visa under the Act; or
- the cancellation of a visa under the Act; or
- the revocation of the cancellation of a visa under the Act.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

2.45 Notification of decision (Act, s 127)

For the purposes of section 127 of the Act (which deals with notification of decisions to cancel a visa), the way of notifying the visa holder of a decision is in writing.

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Note 1 Regulation 2.55 applies to the giving of a document relating to:

- the proposed cancellation of a visa under the Act; or
- the cancellation of a visa under the Act; or
- the revocation of the cancellation of a visa under the Act.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

**2.46 Time to respond to notice of cancellation
(Act, s 129 (1) (c))**

For the purposes of paragraph 129 (1) (c) of the Act (which deals with response to cancellation of a visa), the following periods are prescribed:

- (a) if the former holder of the visa is outside Australia when he or she is given a notice of the cancellation — 28 days;
- (b) if he or she is in Australia when he or she is given notice of the cancellation:
 - (i) if he or she wishes the cancellation to be reconsidered while he or she is in Australia — 5 minutes; or
 - (ii) if he or she wishes the cancellation to be reconsidered while he or she is outside Australia, and he or she departs Australia as soon as possible after being given a notice of the cancellation — 28 days;

beginning when the former holder of the visa is given a notice of the cancellation.

2.47 Notice of cancellation (Act, s 129)

For the purposes of subsection 129 (2) of the Act (which deals with giving notice of cancellation of a visa), the way of giving the former holder of the visa a notice of the cancellation is in writing.

Note 1 Regulation 2.55 applies to the giving of a document relating to:

- the proposed cancellation of a visa under the Act; or
- the cancellation of a visa under the Act; or
- the revocation of the cancellation of a visa under the Act.

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Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

2.48 Revocation of cancellation (Act, s 131 (2))

For the purposes of subsection 131 (2) of the Act (which deals with the circumstances in which cancellation of a visa must not be revoked), the circumstance is that the visa was cancelled on a ground prescribed under subsection 116 (3).

Note The grounds prescribed under subsection 116 (3) are grounds on which a visa **must** be cancelled. For those grounds, see subregulation 2.39 (2).

2.49 Notice of decision whether to revoke cancellation (Act, s 132)

For the purposes of section 132 of the Act (which deals with notification of a decision about cancellation of a visa), the way of notifying the visa holder of a decision is in writing.

Note 1 Regulation 2.55 applies to the giving of a document relating to:

- the proposed cancellation of a visa under the Act; or
- the cancellation of a visa under the Act; or
- the revocation of the cancellation of a visa under the Act.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

2.50 Cancellation of business visas

(1) In this regulation:

old business skills entry permit means:

- (a) an entry permit granted under the Migration (1993) Regulations (including an entry visa of any of those classes that operated as an entry permit) of any of the following classes:
- (i) Class 127 (business skills);
 - (ii) Class 128 (business skills (senior executive));
 - (iii) Class 129 (State/Territory sponsored business skills);
 - (iv) Class 130 (State/Territory sponsored business skills (senior executive));

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- (b) an entry permit granted under the Migration (1989) Regulations of any of the following classes:
 - (i) business (general) (code number 123);
 - (ii) business (joint venture) (code number 122);
 - (iii) business skills (code number 127);
 - (iv) business skills (senior executive) (code number 128).

old business skills visa means:

- (a) a visa granted under the Migration (1993) Regulations of any of the following classes:
 - (i) Class 127 (business skills);
 - (ii) Class 128 (business skills (senior executive));
 - (iii) Class 129 (State/Territory sponsored business skills);
 - (iv) Class 130 (State/Territory sponsored business skills (senior executive));
- (b) a visa granted under the Migration (1989) Regulations of any of the following classes:
 - (i) business (general) (code number 123);
 - (ii) business (joint venture) (code number 122);
 - (iii) business skills (code number 127);
 - (iv) business skills (senior executive) (code number 128).

- (2) For paragraph (a) of the definition of *business visa* in subsection 134 (10) of the Act, the following classes of visas are prescribed:

- (a) Business Skills (Migrant) (Class AD);
- (b) Business Skills — Business Talent (Migrant) (Class EA);
- (c) Business Skills — Established Business (Residence) (Class BH);
- (d) Business Skills (Residence) (Class BH);
- (e) Business Skills (Provisional) (Class UR).

- (3) For the purposes of paragraph (b) of the definition of *business visa* in subsection 134 (10) of the Act, the prescribed kinds of visas, and the prescribed provisions of the Migration Reform

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(Transitional Provisions) Regulations that apply to each of those kinds of visas, are the kinds of visas and the provisions of those Regulations set out in the following paragraphs:

- (a) a transitional (permanent) visa (being a visa to which regulation 4 of those Regulations applies) that a person is taken to hold because he or she held an old business skills entry permit;
- (b) a transitional (permanent) visa (being a visa to which regulation 6 of those Regulations applies) that a person is taken to hold because he or she held an old business skills visa;
- (c) a transitional (permanent) visa (being a visa to which regulation 7 of those Regulations applies) that a person is taken to hold because he or she held a permanent return visa granted on the basis of holding an old business skills visa;
- (d) a transitional (permanent) visa (being a visa to which regulation 22 of those Regulations applies) that a person is granted because:
 - (i) the person:
 - (A) applied for an old business skills visa; or
 - (B) applied for a permanent return visa on the basis of holding an old business skills visa; and
 - (ii) the application was not decided before 1 September 1994.

- (4) For the definition of *return visa* in subsection 134 (10) of the Act:

return visa means:

- (a) a Return (Residence) (Class BB) visa; or
- (b) a Resident Return (Temporary) (Class TP) visa.

2.50AA Cancellation of regional sponsored employment visas

- (1) For paragraph (b) of the definition of *regional sponsored employment visa* in subsection 137Q (3) of the Act, the kinds of visas are:

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- (a) a Subclass 119 (Regional Sponsored Migration Scheme) visa; and
 - (b) a Subclass 857 (Regional Sponsored Migration Scheme) visa.
- (2) For paragraph 137Q (1) (a) of the Act, the period is:
- (a) for a Subclass 119 (Regional Sponsored Migration Scheme) visa — 6 months from the date on which the holder of the visa first entered Australia as the holder of the visa; and
 - (b) for a Subclass 857 (Regional Sponsored Migration Scheme) visa — 6 months from the date of grant of the visa.

Note This is the period within which the holder of a regional sponsored employment visa must commence the employment referred to in the employer nomination.

Subdivision 2.9.2A Automatic cancellation of student visas

2.50A Meaning of office of Immigration

For paragraph 137J (2) (b) of the Act, *office of Immigration* means a regional or area office of Immigration.

Subdivision 2.9.3 Refusal or cancellation on character grounds

2.51 Notification by Administrative Appeals Tribunal (Act, s 500)

- (1) For subsection 500 (6E) of the Act, the Minister is notified in accordance with subregulation (2).
- (2) The notice must be:
 - (a) in the form set out in subregulation (3); and
 - (b) accompanied by a copy of the application made to the Administrative Appeals Tribunal; and
 - (c) either:
 - (i) personally delivered to the office of the Secretary in Canberra; or

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- (ii) sent by facsimile transmission to the Secretary at the number, or one of the numbers, last notified to the Administrative Appeals Tribunal for that purpose; and
 - (d) received by the Secretary within 7 working days after the application is made to the Administrative Appeals Tribunal.
- (3) The form of the notice is:
 - ‘To the Minister for Immigration and Multicultural Affairs:
Notice is given that an application for review of a decision under section 501 of the *Migration Act 1958*, a copy of which is attached to this notice, was made to the Administrative Appeals Tribunal on [*insert date*].
Signed: [*insert signature of signatory*]
Date: [*insert date on which notice is signed*]’.

2.52 Revocation of decisions by Minister (Act, s 501C)

- (1) This regulation applies to representations made to the Minister under paragraph 501C (3) (b) of the Act.
- (2) The representations must be made within 7 days after the person is given the notice under subparagraph 501C (3) (a) (i) of the Act.
- (3) The representations must be in writing, and:
 - (a) in English; or
 - (b) if the representations are in a language other than English — accompanied by an accurate English translation.
- (4) The representations must include the following information:
 - (a) the full name of the person to whom the representations relate;
 - (b) the date of birth of that person;

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- (c) one of the following:
 - (i) the applicant's client number;
 - (ii) the Immigration file number;
 - (iii) the number of the receipt issued by Immigration when the visa application was made;
 - (d) if the visa application was made outside Australia — the name of the Australian mission or Immigration office at which the visa application was given to the Minister;
 - (e) a statement of the reasons on which the person relies to support the representations.
- (5) A document accompanying the representations must be:
- (a) the original document; or
 - (b) a copy of the original document that is certified in writing to be a true copy by:
 - (i) a Justice of the Peace; or
 - (ii) a Commissioner for Declarations; or
 - (iii) a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959*; or
 - (iv) if the copy is certified in a place outside Australia:
 - (A) a person who is the equivalent of a Justice of the Peace or a Commissioner for Declarations in that place; or
 - (B) a Notary Public.
- (6) If a document accompanying the representations is in a language other than English, the document must be accompanied by an accurate English translation.
- (7) For section 501C of the Act (see subsection (10)), a person is not entitled to make representations about revocation of an original decision if:
- (a) the person is not a detainee; and
 - (b) the person is a non-citizen in Australia; and
 - (c) either:
 - (i) the person has been refused a visa under section 501 or 501A of the Act; or

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- (ii) the last visa held by the person has been cancelled under either of those sections.

2.53 Submission of information or material (Act, s 501D)

- (1) For section 501D of the Act, information or material must be:
 - (a) in writing; and
 - (b) received by the Minister or Immigration within 14 days after the person is invited by the Minister or Immigration to submit information or material.
- (2) A document containing the information or material must be:
 - (a) the original document; or
 - (b) a copy of the original document that is certified in writing to be a true copy by:
 - (i) a Justice of the Peace; or
 - (ii) a Commissioner for Declarations; or
 - (iii) a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959*; or
 - (iv) if the copy is certified in a place outside Australia:
 - (A) a person who is the equivalent of a Justice of the Peace or a Commissioner for Declarations in that place; or
 - (B) a Notary Public.
- (3) The document must contain, or be accompanied by, the following written information:
 - (a) the full name of the person who is the subject of the decision to which the information or material contained in the document relates;
 - (b) the date of birth of that person;
 - (c) one of the following:
 - (i) the applicant's client number;
 - (ii) the Immigration file number;
 - (iii) the number of the receipt issued by Immigration when the visa application was made;

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- (d) if the visa application was made outside Australia — the name of the Australian mission or Immigration office at which the visa application was given to the Minister.
- (4) If the document is submitted in a language other than English, it must be accompanied by an accurate English translation.

Division 2.10 Documents relating to cancellation of visas

2.54 Definitions for Division 2.10

In this Division:

carer of the minor means an individual:

- (a) who is at least 18 years of age; and
- (b) who the Minister reasonably believes:
 - (i) has day-to-day care and responsibility for the minor; or
 - (ii) works in or for an organisation that has day-to-day care and responsibility for the minor and whose duties, whether alone or jointly with another person, involve care and responsibility for the minor.

document includes:

- (a) a letter; and
- (b) an invitation, notice, notification, statement or summons, if it is in writing.

2.55 Giving of documents relating to proposed cancellation, cancellation or revocation of cancellation

- (1) This regulation applies to:
 - (a) the giving of a document to a holder or former holder of a visa relating to the proposed cancellation or the cancellation of a visa under the Act; and
 - (b) the giving of a document under subsection 501G (3) of the Act relating to a decision to cancel a visa under subsection

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501 (1) or (2) or 501A (2) or section 501B or 501F of the Act; and

- (c) the giving of a document to a holder or former holder of a visa relating to the revocation of the cancellation of a visa under the Act.

(2) However, this regulation does not apply in relation to:

- (a) a notice to which section 137J of the Act relates; or
- (b) a person who is in immigration detention.

Note See regulation 5.02.

(3) Subject to subregulation (3A), for a document mentioned in paragraph (1) (a) or (c), the Minister must give the document in one of the following ways:

- (a) by handing it to the person personally;
- (b) by handing it to another person who:
 - (i) is at the person's last residential or business address known to the Minister; and
 - (ii) appears to live there (in the case of a residential address) or work there (in the case of a business address); and
 - (iii) appears to be at least 16 years of age;
- (c) by dating it, and then dispatching it:
 - (i) within 3 working days (in the place of dispatch) of the date of the document; and
 - (ii) by prepaid post or by other prepaid means; to the person's last residential address, business address or post box address known to the Minister;
- (d) by transmitting the document by:
 - (i) fax; or
 - (ii) e-mail; or
 - (iii) other electronic means; to the last fax number, e-mail address or other electronic address known to the Minister.

Note Subregulation (3A) deals with giving documents mentioned in paragraphs (1) (a) and (c) to minors.

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- (3A) If the person is a minor, the Minister must give a document mentioned in paragraph (1) (a) or (c) in 1 of the following ways:
- (a) by handing it to the minor personally;
 - (b) by handing it to another person who:
 - (i) is at the last residential or business address for the minor that is known to the Minister; and
 - (ii) appears to live there (in the case of a residential address) or work there (in the case of a business address); and
 - (iii) appears to be at least 16 years of age;
 - (c) by dating and then dispatching the document:
 - (i) within 3 working days (in the place of dispatch) of the date of the document; and
 - (ii) by prepaid post or by other prepaid means; to the minor's last residential address, business address or post box address known to the Minister;
 - (d) by transmitting the document by:
 - (i) fax; or
 - (ii) e-mail; or
 - (iii) other electronic means; to the minor's last fax number, e-mail address or other electronic address known to the Minister;
 - (e) by dating and then dispatching the document:
 - (i) within 3 working days (in the place of dispatch) of the date of the document; and
 - (ii) by prepaid post or by other prepaid means; to a carer of the minor at the last residential address, business address or post box address for the carer of the minor that is known to the Minister;
 - (f) by transmitting the document by:
 - (i) fax; or
 - (ii) e-mail; or

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- (iii) other electronic means;
to a carer of the minor at the last fax number, e-mail address or other electronic address for the carer of the minor that is known to the Minister.
- (4) Subject to subregulation (4A), for a document mentioned in paragraph (1) (b):
 - (a) if the person has held the visa for less than 1 year when the document is to be given, the Minister must give the document in one of the ways mentioned in subregulation (3); and
 - (b) if the person has held the visa for at least 1 year when the document is to be given:
 - (i) Immigration must try to find the person; and
 - (ii) the Minister must give the document in one of the ways mentioned in subregulation (3).

Note Subregulation (4A) deals with giving documents mentioned in paragraph (1) (b) to minors.

- (4A) If the person is a minor:
 - (a) the Minister must give a document mentioned in paragraph (1) (b) in 1 of the ways mentioned in subregulation (3A); and
 - (b) if the minor has held the visa for at least 1 year when the document is to be given, Immigration must try to find the minor.
- (4B) If the Minister gives a document to a carer of the minor in accordance with this regulation, the Minister is taken to have given the document to the minor.
- (4C) Nothing in subregulation (4B) prevents the Minister giving the minor a copy of the document.
- (5) If the Minister gives a document to a person by handing it to the person, the person is taken to have received the document when it is handed to the person.
- (6) If the Minister gives a document to a person by handing it to another person at a residential or business address, the person is taken to have received the document when it is handed to the other person.

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- (7) If the Minister gives a document to a person by dispatching it by prepaid post or by other prepaid means, the person is taken to have received the document:
- (a) if the document was dispatched from a place in Australia to an address in Australia — 7 working days (in the place of that address) after the date of the document; or
 - (b) in any other case — 21 days after the date of the document.
- (8) If the Minister gives a document to a person by transmitting it by fax, e-mail or other electronic means, the person is taken to have received the document at the end of the day on which the document is transmitted.
- (9) If:
- (a) the Minister purports to give a document to a person by a method specified in this regulation but makes an error in doing so; and
 - (b) the person nonetheless receives the document or a copy of the document;
- the Minister is taken to have given the document to the person and the person is taken to have received the document:
- (c) at the time specified by this regulation for that method; or
 - (d) if the person can show that he or she received the document at a later time — at that later time.

Regulation 3.01

Part 3 Immigration clearance and collection of information

Division 3.1 Information to be given by arriving persons

3.01 Provision of information (general requirement)

- (1) In this regulation:
officer includes a clearance officer.
- (2) This regulation applies to:
 - (a) a person who is an overseas passenger:
 - (i) arriving on board a vessel at a port in Australia in the course of, or at the conclusion of, an overseas flight or an overseas voyage; or
 - (ii) leaving Australia on board a vessel bound for or calling at a place outside Australia; and
 - (b) a person on board an aircraft arriving at, or departing from, an airport in Australia, being an aircraft operated by an international air carrier;
other than:
 - (c) a person included in a class of persons set out in an item in Part 1 of Schedule 9, being an item in which the word “no” appears in column 4; and
 - (d) a person who, under regulation 3.06, is not required to complete a passenger card; and
 - (e) a person who enters Australia:
 - (i) on a non-military ship; and
 - (ii) as a member of the crew of that non-military ship, or as the spouse, de facto partner or dependent child of a member of the crew of that non-military ship.
- (3) A person to whom this regulation applies must:
 - (a) complete a passenger card:

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- (i) in relation to the person and to any other person that person is in charge of on the relevant flight or voyage; and
 - (ii) in accordance with directions set out on the passenger card; and
 - (b) provide the completed passenger card to an officer.
- (4) An officer may require a person to whom this regulation applies to provide to the officer information about that person in respect of any of the following matters:
- (a) name;
 - (b) date of birth and country of birth;
 - (c) citizenship;
 - (d) sex, and marital or relationship status;
 - (e) usual occupation;
 - (f) passport number;
 - (g) if the person is not:
 - (i) an Australian citizen; or
 - (ii) a person who is eligible for the grant of a Special Category visa or a Permanent Resident of Norfolk Island visa; or
 - (iii) a person who will on entry be taken to hold a special purpose visa;
 - the number of the Australian visa held by the person;
 - (h) flight number of aircraft or name of ship in relation to the relevant flight or voyage;
 - (i) country in which the person boarded, or intends to disembark from, the aircraft or ship;
 - (j) if the person is entering Australia — the intended address of the person in Australia.

3.02 Passenger card

- (1) A passenger card must include the following questions, or substantially similar questions:
- (a) “Do you currently suffer from tuberculosis?”;

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- (b) “Do you have any criminal conviction/s?”.
- (2) The questions set out in subregulation (1):
 - (a) may be printed on the passenger card in any order; and
 - (b) may be numbered in any way.
- (3) A passenger card may include instructions for completing it, including instructions that questions are to be answered by ticks or other symbols.

3.03 Evidence of identity and visa for persons entering Australia (Act s 166)

- (1) For paragraph 166 (1) (b) of the Act, the information required to be provided to a clearance authority is that set out in regulation 3.02.

Note Under section 166, a person who enters Australia (other than a person referred to in sections 168 and 169 — broadly, persons who have left Australia only for short periods without going to a foreign country, persons in prescribed classes (see below) and allowed inhabitants of the Protected Zone) must present evidence of their identity and provide certain information, and must do so in a prescribed way.

- (1A) For paragraph 166 (1) (c) of the Act, the circumstance is that the person is in immigration clearance.
- (1B) For subsection 166 (8) of the Act:
 - (a) the circumstance is that an automated identification processing system is available for the immigration clearance of non-citizens who:
 - (i) are airline crew members or airline positioning crew members; and
 - (ii) have been registered for the system; and
 - (b) a personal identifier is one of the following types:
 - (i) a photograph or other image of the non-citizen’s face and shoulders;
 - (ii) the non-citizen’s signature;

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- (iii) any other personal identifier contained in the non-citizen's passport or other travel document.

Note subsection 166 (8) 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 166 (7)), if the applicant complies with any requirements that are prescribed relating to the provision of the personal identifier.

- (2) For subsection 166 (3) of the Act, an Australian citizen who is required to comply with section 166 of the Act must provide a completed passenger card to a clearance officer.
- (3) For subsection 166 (3) of the Act, a non-citizen who is required to comply with section 166 of the Act must:
- (a) if the non-citizen is taken to hold a special purpose visa:
 - (i) provide a completed passenger card to a clearance officer where required by Part 1 of Schedule 9; and
 - (ii) present to a clearance authority:
 - (A) if the non-citizen is a person who is registered for an automated identification processing system — evidence of his or her identity using the system; or
 - (B) evidence of the person's identity, as specified in Part 1 of Schedule 9; and
 - (b) if the non-citizen is eligible to hold a special category visa:
 - (i) present a New Zealand passport that is in force to a clearance authority; and
 - (ii) provide a completed passenger card to a clearance officer; and
 - (c) if the non-citizen has the right of permanent residence on Norfolk Island:
 - (i) present a passport that is:
 - (A) in force; and
 - (B) endorsed with an authority to reside indefinitely on Norfolk Island;to a clearance officer; and
 - (ii) provide a completed passenger card to a clearance officer; and

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- (d) if the non-citizen holds an Electronic Travel Authority (Class UD) visa:
 - (i) present evidence of the person's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and
 - (ii) provide a completed passenger card to a clearance officer; and
- (e) if the non-citizen is a person mentioned in paragraph 1223A (1) (c) of Schedule 1 who holds a Temporary Business Entry (Class UC) visa:
 - (i) present evidence of the person's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and
 - (ii) provide a completed passenger card to a clearance officer; and
- (f) if the non-citizen holds a Subclass 417 (Working Holiday) or Subclass 676 (Tourist) visa granted on the basis of an Internet application:
 - (i) present evidence of the person's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and
 - (ii) provide a completed passenger card to a clearance officer; and
- (g) if the non-citizen holds a Visitor (Class TV) visa:
 - (i) present evidence of the person's identity, as specified in Part 1 of Schedule 9, to a clearance authority; and
 - (ii) provide a completed passenger card to a clearance officer.

Note **Internet application** is defined in regulation 1.03.

- (4) For subsection 166 (3) of the Act, a non-citizen who is required to comply with section 166 of the Act, other than a non-citizen mentioned in subregulation (3), must:
 - (a) present his or her passport to a clearance authority; and
 - (b) if his or her visa is evidenced by a label and a clearance officer asks for the label to be shown — present the label to a clearance officer; and

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- (c) provide a completed passenger card to a clearance officer.

**3.03AA Evidence of identity and providing information —
non-military ships (Act s 166)**

- (1) This regulation applies to a person who is the holder of a Maritime Crew (Temporary) (Class ZM) visa.
- (2) For paragraph 166 (1) (b) of the Act, the information is as much of the information in the table as is required by a clearance officer:

Item	Information
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If the person arrives in Australia on a non-military ship

- | | |
|-----|--|
| 101 | a document that identifies the person as being a member of the crew of the non-military ship on which the person arrived (for example, a contract of employment, a crew list, a supernumerary crew list or a seafarer identity card) |
| 102 | a document which indicates that the person is a spouse or de facto partner of a member of the crew of a non-military ship (for example, a marriage certificate) |
| 103 | a document which indicates that the person is a dependent child of a member of the crew (for example a birth certificate or adoption certificate) |
| 104 | a statement from the master, owner, agent, charterer or operator of a non-military ship that the person is:
(a) a member of the crew of the non-military ship; or
(b) the spouse or de facto partner of a member of the crew of the non-military ship; or
(c) the spouse or de facto partner of a person who is under an offer to become a member of the crew of the non-military ship; or
(d) a dependent child of a member of the crew of the non-military ship; or
(e) a dependent child of a person who is under an offer to become a member of the crew of the non-military ship |

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Item	Information
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105 any information mentioned in subregulation 3.01 (4)

If the person arrives in Australia by air

201 a document which indicates the person is under an offer to become a member of the crew of a non-military ship (a **prospective member of the crew**)

202 a document which indicates that the person is the spouse or de facto partner of:

(a) a member of the crew of a non-military ship; or

(b) a prospective member of the crew

(for example, a marriage certificate)

203 a document which indicates that the person is a dependent child of:

(a) a member of the crew of a non-military ship; or

(b) a prospective member of the crew

(for example, a birth certificate or adoption certificate)

204 a statement from the master, owner, agent, charterer or operator of a non-military ship that the person is:

(a) a prospective member of the crew; or

(b) the spouse or de facto partner of a member of the crew of the non-military ship; or

(c) the spouse or de facto partner of a person who is a prospective member of the crew of the non-military ship; or

(d) a dependent child of a member of the crew of the non-military ship; or

(e) a dependent child of a prospective member of the crew of the non-military ship

205 any information mentioned in subregulation 3.01 (4)

(3) For subsection 166 (3) of the Act, if the person enters Australia as:

(a) a member of the crew on a non-military ship; or

(b) the spouse or de facto partner of a member of the crew on a non-military ship; or

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- (c) a dependent child of a member of the crew of a non-military ship;

the requirements relating to passenger cards in subregulations 3.03 (3) and (4) do not apply in relation to the person.

3.03A Evidence of identity and visa for persons entering Australia — personal identifiers

For paragraph 166 (5) (d) of the Act, the following types of personal identifiers are prescribed:

- (a) fingerprints or handprints of the person (including those taken using paper and ink or digital livescanning technologies);
- (b) an iris scan.

Note Under paragraph 166 (1) (c) of the Act, if a person who is a non-citizen enters Australia in prescribed circumstances, the person must comply with any requirement, made by a clearance authority before the occurrence of an event mentioned in subparagraph 172 (1) (a) (iii) or (b) (iii) or paragraph 172 (1) (c) of the Act, to provide one or more personal identifiers, referred to in subsection 166 (5) of the Act, to a clearance officer.

3.04 Place and time for giving evidence (Act, s 167)

For the purposes of subsection 167 (2) of the Act (which deals with the time and place at which a person who enters Australia must comply with section 166):

- (a) the place at which a person who is required to comply with section 166 must do so is:
 - (i) a regional or area office of Immigration; or
 - (ii) at any place where there is a clearance officer, including a port; and
- (b) the period within which the person must do so is 2 working days after he or she enters Australia.

3.05 Allowed inhabitants of the Protected Zone (Act, s 168 (2))

For the purposes of subsection 168 (2) of the Act (which deals with compliance with section 166 by allowed inhabitants of the Protected Zone):

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- (a) the place at which an allowed inhabitant of the Protected Zone who is required to comply with section 166 must do so is:
 - (i) a regional or area office of Immigration; or
 - (ii) at any place where there is a clearance officer, including a port; and
- (b) the period within which the inhabitant must do so is 5 working days after he or she goes to a part of the migration zone outside the protected area.

3.06 Persons not required to comply with s 166 of the Act (Act, s 168 (3))

For the purposes of subsection 168 (3) of the Act (which deals with the classes of person not required to give information under section 166), each class of person set out in Part 2 of Schedule 9 is prescribed.

3.06A Designated foreign dignitaries

- (1) For item 10 of Part 2 of Schedule 9 (which deals with persons not required to comply with section 166 of the Act), a person is a *designated foreign dignitary* if:
 - (a) the Minister specifies the person in an instrument in writing for this paragraph; or
 - (b) the person is included in a class of persons specified by the Minister in an instrument in writing for this paragraph.
- (2) The Minister must specify a person or a class in accordance with arrangements approved in writing by the Minister.
- (3) If the person is specified in an instrument for paragraph (1) (a), the period in which the person is a designated foreign dignitary:
 - (a) starts when the Minister specifies the person; and
 - (b) ends at the time, or in the way, mentioned in the instrument.

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- (4) If the person is included in a class of persons specified in an instrument for paragraph (1) (b), the period in which the person is a designated foreign dignitary:
- (a) starts when the person becomes a member of the class; and
 - (b) ends at the time, or in the way, mentioned in the instrument.
- (5) For item 10 of Part 2 of Schedule 9, a person is a *designated foreign dignitary* if the person is an accompanying member of the immediate family of a person who is a designated foreign dignitary in accordance with subregulation (1).

Note Regulation 1.12AA explains when a person is a member of the immediate family of another person.

- (6) An instrument made under paragraph (1) (a) or (b) is not a legislative instrument.

Note The effect of section 168 of the Act, regulation 3.06 and Part 2 of Schedule 9 to these Regulations is that a designated foreign dignitary is not required to comply with the requirements of section 166 of the Act relating to the giving of information.

3.07 Persons taken not to leave Australia (Act, s 80 (c))

For the purposes of paragraph 80 (c) of the Act, the prescribed period is 30 days.

3.08 Offence — failure to complete a passenger card

- (1) A person who is required by these Regulations to complete a passenger card must not fail to do so.

Penalty: 10 penalty units.

- (2) Strict liability applies to subregulation (1).

3.09 Evidence of identity — domestic travel on overseas vessels

- (1) In this regulation:

boarding pass means a document that permits a person to board an aircraft, given to the person by the operator of the aircraft.

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officer includes a clearance officer.

overseas vessel has the meaning given by section 165 of the Act.

Note *Vessel* includes an aircraft: see s 5 (1) of the Act.

- (2) Subregulation (2A) applies in relation to a person who travels, or appears to intend to travel, on an overseas vessel from a port in Australia to another port in Australia without calling at a port outside Australia.
- (2A) The person may be required by an officer at either port or both ports in Australia to provide evidence of his or her identity to the officer by producing a document of a kind mentioned in subregulation (3) that:
 - (a) bears a photograph and the full name of the person; and
 - (b) is in force.
- (3) For subregulation (2A), the kinds of document are the following:
 - (a) a passport issued to the person that is in the form in which it was issued;
 - (b) a licence to drive a motor vehicle issued under a law of the Commonwealth, or a State or Territory;
 - (c) a document issued by the Commonwealth, or a State or Territory, or by a Commonwealth, State or Territory authority, that identifies the person;
 - (d) if the vessel is an aircraft — an aviation security identity card issued by:
 - (i) the operator of the aircraft; or
 - (ii) the operator of an airport in Australia.
- (4) If a person to whom this regulation applies is boarding or disembarking from an overseas vessel that is an aircraft, an officer may require the person to show the officer the person's boarding pass.
- (5) An officer may require a person who is travelling with a person:
 - (a) who is under 18; and

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- (b) in respect of whom a document cannot be produced to the officer as required;

to write on the boarding pass issued to the first-mentioned person the full name of the second-mentioned person.

3.10 Use of information

- (1) With the written consent of the Minister, use may be made of information collected under this Part in respect of persons, being information that:
- (a) is collected from passenger cards or passports, or contained in notified data bases (or both), by an officer of any Department or authority of the Commonwealth, or of a State or Territory; and
 - (b) is concerned with any of the following matters, namely law enforcement, national security, national intelligence, education, health, community services, social welfare, employment, labour, taxation, statistics, quarantine, customs, excise.
- (2) The consent of the Minister for the use of information concerned with a matter specified in subregulation (1) may be given in respect of a particular occasion or any number of occasions.
- (3) If:
- (a) the Commonwealth has entered into an agreement with another country in relation to the provision of information concerning international movements of air traffic and persons on international flights; and
 - (b) the Minister is satisfied that the provision to that country of the information specified in subregulation (4) would facilitate the handling of aircraft or of persons travelling to destinations outside Australia;
- the Minister may cause that information to be provided to the immigration authorities of that country.
- (3A) If:
- (a) the Commonwealth has entered into an agreement with an international air carrier in relation to the provision of

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information concerning persons on international flights;
and

- (b) the Minister is satisfied that the provision to that international air carrier of the information specified in subregulation (4) would facilitate the handling of persons travelling to destinations outside Australia;

the Minister may cause that information to be provided to that international air carrier.

- (4) For paragraph (3) (b), in relation to a person travelling to (or to and beyond) the country mentioned in that paragraph, and for paragraph (3A) (b), in relation to a person travelling with the international air carrier mentioned in that paragraph, the following information is specified:
- (a) name;
 - (b) date of birth;
 - (c) citizenship;
 - (ca) sex;
 - (cb) class and subclass of visa;
 - (cc) when the visa ceases to be in effect;
 - (d) passport number;
 - (e) date of departure from Australia;
 - (f) flight number;
 - (g) place of intended disembarkation;
 - (h) ultimate destination.

Note Under the Act, a *visa* is an Australian visa issued in accordance with the Act.

- (5) If the Commonwealth enters into an agreement of a kind referred to in paragraph (3) (a) or (3A) (a):
- (a) the Minister must, as soon as is practicable, cause notice of the fact to be published in the *Gazette*; and
 - (b) information must not be made available under the agreement earlier than the day after the day on which the notice is published.

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3.10A Access to movement records

- (1) For subparagraph 488 (2) (a) (vii) of the Act, Commonwealth, State or Territory legislation specified by the Minister in an instrument in writing for this subregulation is prescribed.

Note Under subsection 488 (1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, subparagraph 488 (2) (a) (vii) of the Act permits the Minister to authorise an officer to perform 1 or more of those actions for the purposes of prescribed Commonwealth, State or Territory legislation.

- (2) For paragraph 488 (2) (g) of the Act:
- (a) an agency of the Commonwealth, a State or a Territory specified by the Minister in an instrument in writing for this paragraph is prescribed; and
 - (b) an employee of a prescribed agency who is specified by the Minister in an instrument in writing for this paragraph is prescribed; and
 - (c) a purpose specified by the Minister in an instrument in writing for this paragraph is prescribed.

Note Under subsection 488 (1) of the Act, a person must not read, examine, reproduce, use or disclose any part of the movement records. However, paragraph 488 (2) (g) of the Act permits the Minister to authorise a prescribed employee of a prescribed agency of the Commonwealth, or of a State or Territory, to perform 1 or more of those actions for a prescribed purpose.

3.11 Production of deportee or removee

- (1) If a person has been placed on board a vessel for the purpose of:
- (a) deportation from Australia under an order made by the Minister under the Act; or
 - (b) removal from Australia;
- an officer may require the master to produce the deportee or removee to the officer at any time before the vessel's departure from its last port of call in Australia.
- (2) The master must not fail to comply with a requirement under subregulation (1).

Penalty: 10 penalty units.

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- (3) Subregulation (2) does not apply if the master has a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (3) (see subsection 13.3 (3) of the *Criminal Code*).

3.12 Offences by master of vessel

The master of a vessel must not:

- (a) refuse or neglect to afford all reasonable facilities to an officer for the performance of the officer's duties; or
- (b) deliver to an officer, under these Regulations, a list or statement that is incorrect in a material particular.

Penalty: 10 penalty units.

Division 3.2 Information about passengers and crew on overseas vessels

3.13 Interpretation

In this Division:

civilian vessel means a vessel other than a vessel of the regular armed forces of a Government recognised by Australia.

master includes owner, charterer, and agent in Australia.

Note *Vessel* includes an aircraft: see the Act, s 5 (1).

3.13A Information about passengers and crew to be given before arrival of international passenger aircraft

- (1) For subsection 245I (1) of the Act, an international passenger aircraft is a kind of aircraft to which Division 12B of the Act applies.

Note The operator of an aircraft to which Division 12B applies that is due to arrive at an airport in Australia from a place outside Australia must, before the arrival of the aircraft, give the Department a report that includes particular information about passengers and crew aboard the aircraft (see section 245L of the Act).

- (2) In this regulation:

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international passenger aircraft means an aircraft that is being used to provide a regular international passenger air service or an international passenger charter air service.

international passenger charter air service means a service of providing air transportation of persons from a place outside Australia to an airport in Australia that:

- (a) is provided:
 - (i) by an airline operator that provides a regular international passenger air service; and
 - (ii) in return for a fee payable by persons using the service; and
- (b) is not conducted in accordance with an international airline licence granted under regulation 15 of the *Air Navigation Regulations 1947*.

regular international passenger air service means a service of providing air transportation of persons from a place outside Australia to an airport in Australia that:

- (a) is provided in return for a fee payable by persons using the service; and
- (b) is conducted in accordance with:
 - (i) an international airline licence granted under regulation 15 of the *Air Navigation Regulations 1947*; and
 - (ii) fixed schedules from fixed airports outside Australia over specific routes to fixed airports in Australia; and
- (c) is available to the general public on a regular basis.

3.13B Information about passengers and crew to be given before arrival of international passenger cruise ship

- (1) For subsection 245I (1) of the Act, an international passenger cruise ship is a kind of ship to which Division 12B of the Act applies.

Note The operator of a ship to which Division 12B applies that is due to arrive at a port in Australia from a place outside Australia must, before the arrival of the ship, give the Department a report that includes particular information about passengers and crew aboard the ship (see section 245L of the Act).

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(2) In this regulation:

international passenger cruise ship means a ship that:

- (a) has sleeping facilities for at least 100 persons (other than crew members); and
- (b) is being used to provide an international passenger sea transportation service.

international passenger sea transportation service means a service of providing sea transportation of persons from a place outside Australia to a port in Australia that:

- (a) is provided in return for a fee payable by persons using the service; and
- (b) is available to the general public.

3.13C Information about passengers and crew to be given before arrival of international cargo ship

(1) For subsection 245I (1) of the Act, an international cargo ship is a kind of ship to which Division 12B of the Act applies.

Note The operator of a ship to which Division 12B applies that is due to arrive at a port in Australia from a place outside Australia must, before the arrival of the ship, give the Department a report that includes particular information about passengers and crew aboard the ship (see section 245L of the Act).

(2) In this regulation:

international cargo ship:

- (a) means a civilian vessel that:
 - (i) has a gross tonnage of at least 500 tons; and
 - (ii) either:
 - (A) is used wholly or principally to provide sea transportation of cargo; or
 - (B) is used to provide services to ships or shipping; and
- (b) does not include any of the following:
 - (i) an international passenger cruise ship within the meaning of subregulation 3.13B (2);
 - (ii) a fishing vessel;
 - (iii) a fishing support vessel;

- (iv) a pleasure craft.

3.13D Obligation to report on passengers and crew of ships — reporting periods for journey from last port outside Australia

Journey begun before 15 February 2009

- (1) For subsection 245L (5A) of the Act, if a ship:
- (a) begins a journey from the last port outside Australia before 15 February 2009; and
 - (b) arrives at a port in Australia on or after that date;
- section 245L of the Act, as in force immediately before 15 February 2009, applies in relation to the ship.

Note The *Migration Act 1958* has been amended by provisions of the *Migration Legislation Amendment Act (No. 1) 2008* which commenced on 15 February 2009. Subsection 245L (5) of the *Migration Act 1958* has been replaced and a new subsection 245L (5A) has been added.

Subsection 245L (5A) permits regulations to be made to prescribe matters of a transitional nature (including prescribing any saving or application provisions) arising out of the making of regulations for the purposes of the new subsection (5).

The effect of subregulation (1) is that the deadline for giving a report on the passengers or crew on the ship is to be worked out in accordance with section 245L of the Act as in force immediately before 15 February 2009, and not in accordance with subregulations (2) and (3).

Journey begun on or after 15 February 2009

- (2) For paragraph 245L (5) (a) of the Act, if:
- (a) a ship begins a journey from the last port outside Australia on or after 15 February 2009; and
 - (b) the likely duration of the ship's journey to a port in Australia is at least 96 hours;
- the prescribed period is 96 hours.

Note The *Migration Act 1958* has been amended by provisions of the *Migration Legislation Amendment Act (No. 1) 2008* which commenced on 15 February 2009. Subsection 245L (5) of the *Migration Act 1958* has been replaced and a new subsection 245L (5A) has been added.

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- (3) For paragraph 245L (5) (b) of the Act, if:
- (a) a ship begins a journey from the last port outside Australia on or after 15 February 2009; and
 - (b) the likely duration of the ship's journey to a port in Australia is mentioned in an item of the following table;
- the period mentioned in the item is specified.

Item	Likely duration of ship's journey	Specified period
1	72 hours or more but less than 96 hours	72 hours
2	48 hours or more but less than 72 hours	48 hours
3	24 hours or more but less than 48 hours	24 hours
4	Less than 24 hours	12 hours

Note The *Migration Act 1958* has been amended by provisions of the *Migration Legislation Amendment Act (No. 1) 2008* which commenced on 15 February 2009. Subsection 245L (5) of the *Migration Act 1958* has been replaced and a new subsection 245L (5A) has been added.

3.14 Information about overseas passengers to be given on arrival of inbound civilian vessel

- (1) If:
- (a) a civilian vessel arrives at a port in Australia (in this regulation called *the relevant port*); and
 - (b) the vessel carries overseas passengers;
- the master must, on the request of an officer, give the officer, to the best of the master's knowledge and belief, the particulars set out in subregulation (2), (3) or (4), as the case requires.

Penalty: 10 penalty units.

- (2) If the last port entered by the vessel before its arrival at the relevant port was outside Australia, the particulars are:
- (a) each passenger's full name; and
 - (b) each passenger's date of birth; and
 - (c) the country of issue and number of each passenger's passport; and
 - (d) the citizenship of each passenger; and

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- (e) the intended address in Australia (if any) of each passenger; and
 - (f) the place in Australia (if any) at which each passenger's journey in the vessel ends.
- (3) If there are overseas passengers on the vessel whose journey is to end at the relevant port, the particulars in respect of each of those passengers are:
- (a) his or her full name; and
 - (b) his or her date of birth; and
 - (c) the country of issue and number of his or her passport; and
 - (d) his or her citizenship; and
 - (e) his or her intended address in Australia.
- (4) If:
- (a) there are passengers on the vessel who:
 - (i) were on board the vessel when it left a place outside Australia; and
 - (ii) intend to travel in the vessel beyond Australia; and
 - (b) the master has not previously been asked by an officer to give particulars of those passengers;
- the particulars of each of those passengers are:
- (c) his or her full name; and
 - (d) his or her date of birth; and
 - (e) the country of issue and number of his or her passport; and
 - (f) his or her citizenship.
- (5) The master must, if asked to do so by an officer, give the officer a specified number (not exceeding 6) of copies of a document containing particulars given under this regulation.

Penalty: 10 penalty units.

3.15 Medical certificate

- (1) If a list is given to an officer under subregulation 3.14 (2), the medical officer of the vessel must also give the officer a certificate signed by him or her that certifies that, in his or her opinion:

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- (a) no passenger on the vessel; or
 - (b) no passenger on the vessel other than a passenger named in the certificate;
is suffering from:
 - (c) tuberculosis; or
 - (d) a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; or
 - (e) a disease or condition that, during the person's proposed period of stay in Australia, would be likely to:
 - (i) result in a significant cost to the Australian community in the areas of health care or community services; or
 - (ii) prejudice the access of an Australian citizen or permanent resident to health care or community services.
- (2) If a passenger is named in the certificate as suffering from a disease or condition referred to in paragraph (1) (c), (d) or (e), the certificate must also set out the disease or condition from which the passenger is suffering.
- (3) If a vessel has no medical officer, the certificate must be signed and given by the master to the best of his or her knowledge and belief.
- (4) If an officer has required the master of a vessel to provide copies of a document under subregulation 3.14 (5), the medical officer or master must provide the same number of copies of the certificate.

Penalty: 10 penalty units.

3.16 Information about overseas passengers — outbound civilian vessel

- (1) If:
 - (a) a civilian vessel leaves a port in Australia on an overseas voyage or an overseas flight; and
 - (b) the vessel carries overseas passengers:

Regulation 3.17

- (i) who were on board the vessel when it left a place outside Australia, and who intend to travel in the vessel beyond Australia; or
 - (ii) who joined the vessel at that port;
- the master of the vessel must give an officer a list setting out, to the best of the master's knowledge and belief, the following particulars of each of those passengers:
- (c) his or her full name;
 - (d) his or her date of birth;
 - (e) the country of issue and number of his or her passport;
 - (f) his or her citizenship;
 - (g) the place where his or her journey in the vessel ends.
- (2) The master must, if asked to do so by an officer, give the officer a specified number (not exceeding 6) of copies of a document containing particulars given under this regulation.

Penalty: 10 penalty units.

3.17 Information about crew

- (1) The master of a civilian vessel that enters Australia must, at any port of call in Australia, if so requested by an officer:
- (a) give the officer a list showing the number of members of the crew and showing, in respect of each member of the crew:
 - (i) his or her full name; and
 - (ii) his or her date of birth; and
 - (iii) his or her citizenship; and
 - (iv) the country of issue and number of his or her passport; and
 - (b) if the vessel is a ship, produce to the officer the ship's articles.
- (2) The master of a civilian vessel that is a ship must, at the first port of call in Australia of the ship, give an officer a list signed by the master showing the name and citizenship of every person on board other than:
- (a) a passenger; or

Regulation 3.19

- (b) a member of the crew whose name appears on the ship's articles as a member of the crew for discharge at a port outside Australia.

Penalty: 10 penalty units.

Division 3.3 Examination, search and detention

3.19 Periods within which evidence to be shown to officer

For subsections 188 (2) and (3) of the Act, the periods are:

- (a) if the requirement is oral — 5 minutes; or
- (b) if the requirement is in writing — 48 hours.

3.19A Circumstances in which an officer must require personal identifiers

For subsection 188 (4) of the Act, the circumstances are that the officer knows or reasonably suspects that the person is a non-citizen and:

- (a) the officer knows or reasonably suspects that the person has refused or failed to comply with a requirement to provide evidence under subsection 188 (1) of the Act within:
 - (i) the period mentioned in regulation 3.19; or
 - (ii) any further period allowed under subsection 188 (2) of the Act; or
- (b) during the period or further period the person advises the officer that the person refuses to, or is unable to, comply with a requirement under subsection 188 (1) of the Act; or
- (c) during the period or further period the person has provided evidence in order to comply with a requirement under subsection 188 (1) of the Act, and the officer is not reasonably satisfied that the evidence is:
 - (i) authentic; or
 - (ii) reliable.

Regulation 3.20

3.20 Information to be provided — authorised officers carrying out identification tests

- (1) For paragraph 258B (1) (b) of the Act, the matters are:
- (a) the reason why a personal identifier is required to be provided; and
 - (b) how a personal identifier may be collected; and
 - (c) how any personal identifier that is collected may be used; and
 - (d) the circumstances in which a personal identifier may be disclosed to a third party; and
 - (e) notification that a personal identifier may be produced in evidence in a court or tribunal in relation to the non-citizen who provided the personal identifier; and
 - (f) notification that the *Privacy Act 1988* applies to a personal identifier, and that the non-citizen has a right to make a complaint to the Privacy Commissioner about the handling of personal information; and
 - (g) notification that the *Freedom of Information Act 1982* gives a person access to certain information and documents in the possession of the Government of the Commonwealth and of its agencies, and that the non-citizen has a right under that Act to seek access to that information or those documents under that Act, and to seek amendment of records containing personal information that is incomplete, incorrect, out of date or misleading; and
 - (h) if the non-citizen is a minor or incapable person — information concerning how a personal identifier is to be obtained from a minor or incapable person.

Note Subsections 261AL (4) and 261AM (3) require a parent, guardian or independent person to be informed, before giving consent for a minor or an incapable person to provide a personal identifier, of the matters of which a minor or incapable person must be informed under section 258B.

- (2) For subsection 258B (3) of the Act, if a form is to be given to a non-citizen, it must be given to the non-citizen at a time that gives the non-citizen enough time to read and understand the form before the identification test is conducted.

Regulation 3.21

3.21 Information to be provided — authorised officers not carrying out identification tests

- (1) For subsection 258C (1) of the Act, the matters are:
 - (a) the reason why a personal identifier is required to be provided; and
 - (b) how a personal identifier may be collected; and
 - (c) how any personal identifier that is collected may be used; and
 - (d) the circumstances in which a personal identifier may be disclosed to a third party; and
 - (e) notification that a personal identifier may be produced in evidence in a court or tribunal in relation to the non-citizen who provided the personal identifier; and
 - (f) notification that the *Privacy Act 1988* applies to a personal identifier, and that the non-citizen has a right to make a complaint to the Privacy Commissioner about the handling of personal information; and
 - (g) notification that the *Freedom of Information Act 1982* gives a person access to certain information and documents in the possession of the Government of the Commonwealth and of its agencies, and that the non-citizen has a right under that Act to seek access to that information or those documents under that Act, and to seek amendment of records containing personal information that is incomplete, incorrect, out of date or misleading; and
 - (h) information concerning how a personal identifier is to be obtained from a minor or incapable person.
- (2) For subsection 258C (1) of the Act, the manner of informing a non-citizen is in writing.

Division 3.4 Identification of immigration detainees

3.30 Immigration detainees must provide personal identifiers

- (1) For subsection 261AA (1) of the Act, a circumstance is that the non-citizen is in the company of, and restrained by:
 - (a) an officer; or
 - (b) in the case of a particular non-citizen — another person directed by the Secretary to accompany and restrain the non-citizen.

- (2) For subsection 261AA (1) of the Act, a circumstance is that each of the following applies:
 - (a) immediately before being detained in immigration detention, the non-citizen was detained under:
 - (i) the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (ii) the *Fisheries Management Act 1991*;
 - (iii) the *Torres Strait Fisheries Act 1984*;
 - (b) the non-citizen has provided a personal identifier or personal identifiers in accordance with the relevant Act in subparagraph (a) (i), (ii) or (iii).

- (3) Subregulation (2) applies to the provision of a personal identifier only if:
 - (a) an authorised officer is satisfied that the personal identifier that has been provided is usable for a particular purpose set out in subsection 5A (3) of the Act; and
 - (b) the authorised officer is satisfied about the integrity of the personal identifier; and
 - (c) the authorised officer is satisfied that no further personal identifiers need to be collected from the non-citizen to satisfy the purpose.

Regulation 3.31

- (4) For paragraph 261AA (1A) (e) of the Act, an iris scan is prescribed.

Note Under subsection 261AA (1) of the Act, a non-citizen who is in immigration detention must (other than in the prescribed circumstances) provide to an authorised officer one or more personal identifiers. Personal identifiers are mentioned in subsection 261AA (1A) of the Act, and include any prescribed personal identifiers.

3.31 Authorised officers must require and carry out identification tests

For paragraph 261AB (1) (a) of the Act, the types of personal identifiers are as follows:

- (a) fingerprints or handprints of the non-citizen (including those taken using paper and ink or digital livenesscanning technologies);
- (b) a measurement of the non-citizen's height and weight;
- (c) a photograph or other image of the non-citizen's face and shoulders;
- (d) the non-citizen's signature.



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

This compilation was prepared on 1 July 2009
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The text of any of those amendments not in force
on that date is appended in the Notes section

**[Note: Regulation 2.12A ceases to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains Notes and Tables A and B
Each volume has its own Table of Contents

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Part 4 Review of decisions

Division 4.1 Review of decisions other than decisions relating to refugee status

Note This Division of Part 4 deals with review of visa decisions. It refers to the definition of *MRT-reviewable decision* in Division 2 of Part 5 of the Act.

Review of decisions relating to protection visas is dealt with in Division 4.2.

4.01 Interpretation

Expressions used in this Part, other than *nominated* and *sponsored*, have the same respective meanings as in Part 5 of the Act.

4.02 Prescribed MRT-reviewable decisions and who may apply for review (Act, ss 338 and 347)

(1) In this regulation:

business sponsor means:

- (a) a standard business sponsor (other than a standard business sponsor approved under regulation 1.20DA); or
- (b) a pre-qualified business sponsor.

Note From 1 July 2003, 2 kinds of business sponsorship are provided for by these Regulations: standard business sponsorship approved under regulation 1.20D and standard business sponsorship approved under regulation 1.20DA (which relates to overseas businesses).

However, an application for approval as a standard business sponsor, or a pre-qualified business sponsor, made before 1 July 2003 but not approved or rejected before 1 July 2003, will continue to be dealt with under regulation 1.20D as in force before 1 July 2003.

(1A) For paragraph 338 (2) (d) of the Act, a Subclass 457 (Business (Long Stay)) visa is prescribed.

(4) For subsection 338 (9) of the Act, each of the following decisions is an MRT-reviewable decision:

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- (a) a decision under regulation 1.20D, as in force before, on or after 1 July 2003, to reject a person's application;
- (c) a decision under section 137B of the Act to cancel the approval of a person as a business sponsor;
- (d) a decision under regulation 1.20H to refuse to approve the nomination of an activity by a business sponsor;
- (e) a decision under subregulation 5.19 (1B) to reject an application for approval of a nominated position;
- (f) a decision that:
 - (i) relates to requiring a security; and
 - (ii) relates to the refusal to grant a visa, being a visa for which the Minister is to have regard to a criterion to the effect that if an authorised officer has required a security for compliance with any conditions that the officer has indicated to the applicant will be imposed on the visa if it is granted, the security has been lodged;
- (g) a decision under subsection 140E (1) of the Act to refuse an application for approval as an approved professional development sponsor;
- (h) a decision under subsection 140J (2) or 140K (2) of the Act to take the action mentioned in paragraph 140L (a), (b), (c), (d), (e) or (f) of the Act in relation to:
 - (i) an approved professional development sponsor; or
 - (ii) a former approved professional development sponsor;
- (i) a decision under subsection 140J (2) or 140K (2) of the Act to take the action mentioned in paragraph 140L (a), (c), (d), (e), (f) or (g) of the Act in relation to:
 - (i) a standard business sponsor; or
 - (ii) a former standard business sponsor.
- (j) a decision to refuse to grant a Subclass 173 (Contributory Parent (Temporary)) visa to a contributory parent newborn child;
- (k) a decision to refuse to grant a Subclass 884 (Contributory Aged Parent (Temporary)) visa to a contributory parent newborn child;

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- (l) a decision to refuse to grant a Subclass 457 (Business (Long Stay)) visa to a non-citizen if:
 - (i) the non-citizen is outside Australia at the time of application; and
 - (ii) the non-citizen was sponsored or nominated, as required by a criterion for the grant of the visa, by:
 - (A) an Australian citizen; or
 - (B) a company that operates in the migration zone; or
 - (C) a partnership that operates in the migration zone; or
 - (D) the holder of a permanent visa; or
 - (E) a New Zealand citizen who holds a special category visa;
 - (m) a decision under subregulation 1.20AA (2) to refuse to approve a person or an organisation as a sponsor of a temporary visa applicant.
- (5) For paragraph 347 (2) (d) of the Act, an application for review of a decision mentioned in subregulation (4) may only be made by:
- (a) in the case of a decision mentioned in paragraph (4) (a) — a person to whose application the decision relates;
 - (b) in the case of a decision mentioned in paragraph (4) (c) — a person to whose approval the decision relates;
 - (c) in the case of a decision mentioned in paragraph (4) (d) — the business sponsor to whose nomination of an activity the decision relates;
 - (d) in the case of a decision mentioned in paragraph (4) (e) — the employer to whose nomination of a position the decision relates;
 - (e) in the case of a decision to which paragraph (4) (f) applies — the non-citizen in relation to whom the decision is made;
 - (f) in the case of a decision to which paragraph (4) (g) applies — the applicant for approval as an approved professional development sponsor;

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- (g) in the case of a decision to which paragraph (4) (h) applies — the approved professional development sponsor or former approved professional development sponsor;
- (h) in the case of a decision to which paragraph (4) (j) applies — the sponsor of the contributory parent newborn child;
- (i) in the case of a decision to which paragraph (4) (k) applies — the applicant;
- (j) in the case of a decision to which paragraph (4) (i) applies — the former sponsor, or former approved sponsor, to whom the action relates;
- (k) in the case of a decision to which paragraph (4) (l) relates — the sponsor or nominator;
- (l) in the case of a decision to which paragraph (4) (m) applies — the person or organisation to whose approval the decision relates.

4.10 Time for lodgment of applications with Tribunal (Act, s 347)

- (1) For paragraph 347 (1) (b) of the Act, the period in which an application for review of an MRT-reviewable decision must be given to the Tribunal:
 - (a) if the MRT-reviewable decision is mentioned in subsection 338 (2) or (7A) of the Act — starts when the applicant receives notice of the decision and ends at the end of 21 days after the day on which the notice is received; or
 - (b) if the MRT-reviewable decision is mentioned in subsection 338 (3) or (3A) of the Act — starts when the applicant receives notice of the decision and ends at the end of 7 working days after the day on which the notice is received; or
 - (c) if the MRT-reviewable decision is mentioned in subsection 338 (5), (6), (7) or (8) of the Act — starts when the applicant receives notice of the decision and ends at the end of 70 days after the day on which the notice is received; or

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- (d) if the MRT-reviewable decision is prescribed under subsection 338 (9) of the Act — starts when the applicant receives notice of the decision and ends at the end of 21 days after the day on which the notice is received.
- (2) However, the period in which an application by a detainee for review of an MRT-reviewable decision must be given to the Tribunal:
 - (a) in the case of an application for review of a decision of a kind mentioned in subsection 338 (4) of the Act — starts when the detainee receives notice of the decision and ends at the end of 2 working days after the day on which the notice is received; or
 - (aa) in the case of an application for review of a decision to which paragraph 4.02 (4) (f) applies — starts when the detainee receives notice of the decision to refuse to grant the visa mentioned in subparagraph 4.02 (4) (f) (ii) and ends at the end of 2 working days after the day on which the notice is received; or
 - (b) in any other case — starts when the detainee receives notice of the decision and ends at the end of 7 working days after the day on which the notice is received.
- (2A) For subparagraph 347 (1) (b) (iii) of the Act, the prescribed number of days in respect of an MRT-reviewable decision prescribed under subsection 338 (9) of the Act is 28 days.

Note For subparagraph 347 (1) (b) (iii) of the Act, there must be a prescribed number of days in respect of kinds of decisions covered by subsection 338 (9) of the Act. The prescribed period for applications for review must end not later than the prescribed number of days after notification of the decision.
- (4) An application for review of an MRT-reviewable decision must set out:
 - (a) the name and address of the applicant for review; and
 - (b) a brief statement of the capacity in which the applicant applies for review; and
 - (c) details of the decision to which the application relates; and

Regulation 4.11

- (d) if:
 - (i) the application is made in relation to a decision refusing to grant a visa, or a decision relating to a points test assessed score; and
 - (ii) the applicant for the review was not also the applicant for the visa;the name and address of the applicant for the visa.
- (5) An application that is sent to the Tribunal by post is taken to be given to the Tribunal at the time it is received at a registry of the Tribunal.
- (6) An application that is sent to the Tribunal by fax or other electronic means is taken to be given to the Tribunal at the time the fax or transmission is received at a registry of the Tribunal.

4.11 Giving the application to the Tribunal

An application for review by the Tribunal must be given to the Tribunal:

- (a) in the case of a primary decision relating to an applicant who is in immigration detention:
 - (i) at a registry of the Tribunal:
 - (A) by posting it to that registry; or
 - (B) by leaving it at that registry in a box designated for receiving applications; or
 - (C) by leaving it with an officer of the Tribunal at that registry; or
 - (D) by sending it to that registry by fax; or
 - (E) by transmitting it to that registry by other electronic means specified in a direction given by the Principal Member under section 353A of the Act; or
 - (ii) by giving it to an officer of Immigration at a detention centre, or at an office occupied by an officer of Immigration at an airport, at least 1 working day before the expiry of the period in which the application for review must be given to the Tribunal under regulation 4.10; or

Regulation 4.12

- (b) in any other case — at a registry of the Tribunal by any method set out in sub-subparagraph (a) (i) (A), (B), (C), (D) or (E).

4.12 Combined applications for Tribunal review

- (2) If:
 - (a) 2 or more applicants have combined their primary applications in Australia in a way permitted by Schedule 1 or regulation 2.08, 2.08A or 2.08B; and
 - (b) the Minister's decisions in respect of 2 or more of those applicants are that a visa not be granted; and
 - (c) the Minister's decisions are MRT-reviewable decisions;
the applicants referred to in paragraph (b) may combine their applications for review by the Tribunal of the Minister's decisions.
- (4) If:
 - (a) a person has nominated or sponsored 2 or more members of a family unit in respect of their primary applications for visas of a kind referred to in subsection 338 (5) of the Act; and
 - (b) the Minister's decisions in respect of 2 or more of the members of that family unit are that a visa not be granted; and
 - (c) the Minister's decisions are MRT-reviewable decisions;
the nominator or sponsor may combine his or her applications for review by the Tribunal of the Minister's decisions in respect of each of the members of the family unit to whom the Minister refused to grant a visa.
- (5) If a person applies for review by the Tribunal of:
 - (a) a decision to which paragraph 4.02 (4) (f) applies; and
 - (b) a decision to refuse to grant the visa mentioned in subparagraph 4.02 (4) (f) (ii) that is an MRT-reviewable decision;the applications for review by the Tribunal of the decisions are taken to be combined.

Regulation 4.13

- (6) If:
- (a) 2 or more visa applicants have combined their primary applications, in a way permitted by Schedule 1 or regulation 2.08, 2.08A or 2.08B, for visas of a kind referred to in subsection 338 (6) or (7) of the Act; and
 - (b) the Minister's decisions in respect of 2 or more of those visa applicants are that visas not be granted; and
 - (c) the Minister's decisions are MRT-reviewable decisions; the Australian citizen or Australian permanent resident who is a parent, spouse, de facto partner, child, brother or sister of the visa applicants may combine his or her applications for review by the Tribunal of the Minister's decisions in respect of each of those visa applicants to whom the Minister refused to grant a visa.

4.13 Tribunal review — fees and waiver

- (1) Subject to this regulation, the fee for an application for review of a decision by the Tribunal is \$1,400.
- (2) No fee is payable on the following:
 - (a) an application for review by the Tribunal of a primary decision of a kind referred to in subsection 338 (4) of the Act;
 - (b) an application, made by a non-citizen who is in immigration detention, for review by the Tribunal of a decision to which paragraph 4.02 (4) (f) applies.
- (3) If a person combines 2 or more applications for review by the Tribunal in accordance with regulation 4.12, an application fee is payable in respect of only 1 of those applications.
- (4) The Registrar, or a Deputy Registrar, of the Tribunal, or another officer of the Tribunal authorised in writing by the Registrar, may determine that the fee on an application for review by the Tribunal of a decision should not be paid if he or she is satisfied that payment of the fee has caused, or is likely to cause, severe financial hardship to the review applicant.

Regulation 4.14

4.14 Refund of fees by Tribunal

- (1) The amount of a fee paid on an application for review by the Tribunal is to be refunded if:
- (a) the decision to which the review relates is set aside or varied; or
 - (b) the application is remitted to the primary decision-maker for reconsideration; or
 - (c) the Registrar, a Deputy Registrar or another officer of the Tribunal authorised by the Registrar determines under subregulation 4.13 (4) that the fee should not be paid; or
 - (d) the applicant is not entitled to apply for review by the Tribunal; or
 - (e) the decision to which the application relates is not subject to review by the Tribunal; or
 - (f) the Minister has given a conclusive certificate as referred to in section 339 of the Act (which deals with conclusive certificates) in relation to the decision to which the application relates.

Note The conclusive certificate certifies that review would be contrary to the public interest.

- (2) If an application for review by the Tribunal is withdrawn, the fee paid on the application is to be refunded if the application is withdrawn because:
- (a) the death has occurred, since the visa application was made, of:
 - (i) the applicant for the visa that was the subject of the application; or
 - (ii) a member of that applicant's family unit; or
 - (iii) a review applicant; or
 - (b) the applicant for the visa that was the subject of the application has been granted a visa of the class applied for otherwise than because the Minister has reconsidered the primary application and the applicant's score on the reconsideration is more than or equal to the applicable pass mark; or

Regulation 4.15

- (c) in relation to an application for a parent visa — the applicant:
 - (i) applied for another parent visa after lodging the application for review; and
 - (ii) wants to have a decision made on the application for the other parent visa.

4.15 Tribunal's power to give directions

- (1) For paragraph 349 (2) (c) of the Act (which deals with the Tribunal's power to remit):
 - (a) an application for a visa or entry permit made on or after 19 December 1989 is a prescribed matter; and
 - (b) subject to subregulation (4), a permissible direction is that the applicant must be taken to have satisfied a specified criterion for the visa or entry permit.
- (2) For paragraph 349 (2) (c) of the Act, the requiring of a security that is mentioned in paragraph 4.02 (4) (f) is a prescribed matter.
- (3) If the MRT remits a prescribed matter that is mentioned in subregulation (2) to the primary decision-maker, the MRT may direct the primary decision-maker:
 - (a) to indicate to the applicant that a condition specified by the MRT will be imposed on the visa if it is granted; and
 - (b) to require a security for compliance with the condition (whether or not a security has already been required).

Note 1 Prescribed matter: in this case, a matter that the Tribunal may remit for reconsideration.

Note 2 See s 390 of the Act, which modifies the Administrative Appeals Tribunal Act 1975 for the purposes of review by the Administrative Appeals Tribunal of migration decisions. Under s 43 (1A) (c), taken to be inserted in the Administrative Appeals Tribunal Act for those purposes, the matters set out in regulation 4.15 apply also to review by the Administrative Appeals Tribunal.

- (4) If, under subregulation 2.08E (2B), the MRT remits a prescribed matter mentioned in paragraph (1) (a) to the Minister for reconsideration, the MRT must not make a direction in relation to that matter other than the direction mentioned in subregulation 2.08E (2B).

Regulation 4.17

4.16 Statement about decision under review

The number of copies that the Secretary must give to the Registrar under subsection 352 (2) of the Act (which deals with the statement that the Secretary must give to the Tribunal) is 1.

4.17 Prescribed periods — invitation to comment or give additional information (Act, s 359B (2))

- (1) This regulation applies, for subsection 359B (2) of the Act, if a person is invited to give additional information, or to comment on information, other than at an interview.
- (2) If the invitation relates to an application for review of a decision that applies to a detainee, the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 2 working days after the day on which the invitation is received.
- (3) If the invitation relates to an application for review of a decision to cancel, or a decision not to revoke the cancellation of, a visa that applies to a person who is not a detainee, the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 5 working days after the day on which the invitation is received.
- (4) If the invitation relates to any other application for review, the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 28 days after the day on which the invitation is received.
- (5) However, if the prescribed period mentioned in subregulation (2) would end before the end of a period prescribed in regulation 4.27, or a period last extended under subsection 367 (2) of the Act, the prescribed period:
 - (a) starts when the invitation is received; and
 - (b) ends at the end of the period prescribed in regulation 4.27 or extended under subsection 367 (2).

Regulation 4.18

- (6) A response to the invitation is taken to be given to the Tribunal when a registry of the Tribunal receives the response.

Note 1 If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.18 Prescribed periods — invitation to comment or give additional information (Act, s 359B (3))

- (1) This regulation applies, for paragraph 359B (3) (b) of the Act, if a person is invited to give additional information, or to comment on information, at an interview.
- (2) If the invitation relates to an application for review of a decision that applies to a detainee, the prescribed period for giving the information or comments starts when the person receives the invitation and ends:
- (a) at the end of 2 working days after the day on which the invitation is received; or
 - (b) if the person agrees in writing — at the end of 1 working day after the day on which the invitation is received.
- (3) If the invitation relates to an application for review of a decision that applies to a person who is not a detainee, the prescribed period for giving the information or comments starts when the person receives the invitation and ends:
- (a) at the end of 5 working days after the day on which the invitation is received; or
 - (b) if the person agrees in writing — at the end of a shorter period that is not less than 1 working day.
- (5) However, if the prescribed period mentioned in subregulation (2) would end before the end of a period prescribed in regulation 4.27, or a period last extended under subsection 367 (2) of the Act, the prescribed period:
- (a) starts when the invitation is received; and

Regulation 4.18A

- (b) ends at the end of the period prescribed in regulation 4.27 or extended under subsection 367 (2).

Note 1 If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.18A Prescribed periods — invitation to comment or give additional information (Act, s 359B (4))

- (1) This regulation applies, for subregulation 359B (4) of the Act, if:
- (a) a person is invited to give additional information, or to comment on information, within a period prescribed in regulation 4.17; and
 - (b) the invitation is to give the information or comments other than at an interview; and
 - (c) the prescribed period is to be extended by the Tribunal.
- (2) If the invitation relates to an application for review of a decision that applies to a detainee, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 2 working days after the day on which the notice is received.
- (3) If the invitation relates to an application for review of a decision to cancel, or a decision not to revoke the cancellation of, a visa that applies to a person who is not a detainee, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 5 working days after the day on which the notice is received.
- (4) If the invitation relates to any other application for review, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 28 days after the day on which the notice is received.

Regulation 4.18B

- (5) However, if the prescribed further period mentioned in subregulation (2) would end before the end of a period prescribed in regulation 4.27, or a period last extended under subsection 367 (2) of the Act, the prescribed further period:
- (a) starts when notice of the extended period is received; and
 - (b) ends at the end of the period prescribed in regulation 4.27 or extended under subsection 367 (2).
- (6) A response to the invitation is taken to be given to the Tribunal when a registry of the Tribunal receives the response.

Note 1 If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.18B Prescribed periods — invitation to comment or give additional information (Act, s 359B (5))

- (1) This regulation applies, for paragraph 359B (5) (b) of the Act, if:
- (a) a person is invited to give additional information, or to comment on information, within a period prescribed in regulation 4.18; and
 - (b) the invitation is to give the information or comments at an interview; and
 - (c) the prescribed period is to be extended by the Tribunal.
- (2) If the invitation relates to an application for review of a decision that applies to a detainee, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 2 working days after the day on which the notice is received.
- (3) If the invitation relates to an application for review of a decision to cancel, or a decision not to revoke the cancellation of, a visa that applies to a person who is not a detainee, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period

Regulation 4.19

and ends at the end of 5 working days after the day on which the notice is received.

- (4) If the invitation relates to any other application for review, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 14 days after the day on which the notice is received.
- (5) However, if the prescribed period mentioned in subregulation (2) would end before the end of a period prescribed in regulation 4.27, or a period last extended under subsection 367 (2) of the Act, the prescribed period:
 - (a) starts when notice of the extended period is received; and
 - (b) ends at the end of the period prescribed in regulation 4.27 or extended under subsection 367 (2).

Note 1 If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.19 Summons to attend before Tribunal

- (1) For paragraph 363 (3) (a) of the Act, this regulation sets out the manner of serving on a person a summons to appear before the Tribunal to give evidence.
- (2) For paragraph 363 (3) (b) of the Act, this regulation sets out the manner of serving on a person a summons to produce to the Tribunal such documents as are referred to in the summons.
- (3) If the person has notified the Tribunal of an address for service under regulation 4.39, the summons must be served by one of the methods specified in section 379A of the Act.

Note 1 If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

Regulation 4.20

- (4) If the person has not notified the Tribunal of an address for service under regulation 4.39, the summons must be served in one of the following ways:
- (a) by handing it to the person personally;
 - (b) by handing it to another person who:
 - (i) is at the person's last residential or business address known to the Tribunal; and
 - (ii) appears to live there (in the case of a residential address) or work there (in the case of a business address); and
 - (iii) appears to be at least 16 years of age;
 - (c) by dating it, and then dispatching it:
 - (i) within 3 working days (in the place of dispatch) of the date of the document; and
 - (ii) by prepaid post or by other prepaid means; to the person's last residential or business address known to the Tribunal.

4.20 Fees for persons giving evidence

- (1) For the purposes of subsection 374 (1) of the Act (which deals with the fees and allowances to be paid to a person summoned to give evidence), the fees and allowances for expenses to be paid to a person summoned to appear before the Tribunal in relation to a review by the Tribunal are the fees and allowances in accordance with the scale in Schedule 2 to the Administrative Appeals Tribunal Regulations as in force from time to time.
- (2) The presiding member of the Tribunal is to determine the fees and allowances (if any) payable to a person under subregulation (1).

4.21 Prescribed periods — notice to appear before Tribunal (Act, s 360A)

For subsection 360A (4) of the Act, the prescribed period:

- (a) if the decision under review applies to an applicant who is a detainee — starts when the applicant receives notice of

Regulation 4.23

the invitation to appear before the Tribunal and ends at the end of 2 working days after the day on which the notice is received; or

- (b) in any other case — starts when the applicant receives notice of the invitation to appear before the Tribunal and ends:
 - (i) at the end of 7 working days after the day on which the notice is received; or
 - (ii) if the applicant agrees in writing — at the end of a shorter period that is not less than 1 working day.

Note 1 If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.22 Numbers of Senior Members and members of Tribunal (Act, s 395)

- (1) For paragraph 395 (b) of the Act (which deals with the number of Senior Members of the Tribunal), 9 is prescribed.
- (2) For paragraph 395 (c) of the Act (which deals with the number of members of the Tribunal), 110 is prescribed.

4.23 Expedited review (close family visit visas)

- (1) This regulation applies to review of a decision to refuse to grant a Short Stay Sponsored (Visitor) (Class UL) visa (also known as a Sponsored (Visitor) (Class UL) visa), a Long Stay (Visitor) (Class TN) visa, a Short Stay (Visitor) (Class TR) visa or a Tourist (Class TR) visa if and only if:
 - (a) the applicant stated in his or her application that he or she intended to visit Australia, or remain in Australia as a visitor, for the purposes of visiting an Australian citizen or an Australian permanent resident who is a parent, spouse, de facto partner, child, brother or sister of the applicant; and
 - (b) that application was made to allow the applicant to participate in an event of special family significance in which he or she is directly concerned; and

Regulation 4.24

- (c) the applicant identified the event and the applicant's concern in that application; and
 - (d) that application was refused because either:
 - (i) the Minister was not satisfied that the expressed intention of the applicant only to visit Australia was genuine; or
 - (ii) the applicant did not satisfy public interest criterion 4011; and
 - (e) the application was made long enough before the event to allow for review by the Tribunal if the application were refused.
- (3) The decision must be reviewed immediately by the Tribunal on receipt of an application for review of the decision.
 - (4) A review authority must give notice to the applicant of its decision in respect of an application for review as soon as practicable.

4.24 Expedited review (decisions to cancel visas)

- (1) A decision to cancel a visa (other than a decision of a kind referred to in subsection 338 (4) of the Act) must be reviewed immediately by the Tribunal on receipt by it of an application for review of the decision.
- (2) The Tribunal must give notice of its decision in respect of an application for review to the applicant as soon as practicable.

4.25 Expedited review (certain applicants in immigration detention)

- (1) If:
 - (a) a decision is made to refuse a substantive visa; and
 - (b) the person who applied for the visa is in immigration detention when the review application is made;the Tribunal must review the decision immediately on receipt of the application.

Regulation 4.27A

- (2) The Tribunal must give notice of its decision in respect of an application for review to the applicant as soon as practicable.

4.26 Prescribed periods — reconstitution of Tribunal (Act, s 355A)

For subparagraph 355A (2) (c) (ii) of the Act, the prescribed period:

- (a) if the applicant for review of a decision, except a decision to which regulation 4.27 applies, is a detainee when the Tribunal is constituted for the review — starts when the Tribunal is constituted and ends at the end of 2 months after the day on which the Tribunal is constituted; or
- (b) if the applicant for review is not a detainee when the Tribunal is constituted for the review — starts when the Tribunal is constituted and ends at the end of 3 months after the day on which the Tribunal is constituted.

4.27 Prescribed period for making certain decisions (Act, s 367)

For subsection 367 (1) of the Act, the prescribed period starts when the application for review is received by the Tribunal and ends at the end of 7 working days after the day on which the application is received.

Note Subsection 367 (1) of the Act provides for the regulations to limit the time in which the Tribunal must review certain decisions on bridging visas.

4.27A Prescribed period — notice of handing down of decisions (Act, s 368A)

For subsection 368A (3) of the Act, the prescribed period:

- (a) starts when the Tribunal gives the applicant notice of the day on which, and the time and place at which, the decision is to be handed down; and
- (b) ends:
 - (i) at the end of 5 working days after the day on which the notice is received; or

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- (ii) if the applicant agrees in writing — at the end of a shorter period that is not less than 1 working day.

Note 1 If the Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

**Division 4.2 Refugee Review Tribunal and
 decisions relating to protection
 visas**

Subdivision 4.2.1 Introductory

4.28 Interpretation

Expressions used in this Division and in Part 7 of the Act have the same respective meanings in this Division as in that Part.

Subdivision 4.2.2 Tribunal members

4.29 Membership

For the purposes of subsection 458 (2) of the Act, the prescribed number of members (other than the Principal Member) of the Tribunal is 120.

**4.30 Prescribed periods — reconstitution of Tribunal
(Act, s 422A)**

For subparagraph 422A (2) (c) (ii) of the Act, the prescribed period:

- (a) if the applicant for review of a decision is a detainee when the Tribunal is constituted for the review — starts when the Tribunal is constituted and ends at the end of 2 months after the day on which the Tribunal is constituted; or

Regulation 4.31

- (b) if the applicant for review is not a detainee when the Tribunal is constituted for the review — starts when the Tribunal is constituted and ends at the end of 3 months after the day on which the Tribunal is constituted.

Subdivision 4.2.3 General

4.31 Applications

- (1) For the purposes of paragraph 412 (1) (b) of the Act, each period stated in subregulation (2) is prescribed as the period within which an application for review of an RRT-reviewable decision to which the period applies must be given to the Tribunal.
- (2) A period mentioned in subregulation (1) commences on the day on which the applicant is notified of the decision to which the application relates, and ends at the end of:
 - (a) in the case of an application given to the Tribunal by or for an applicant in immigration detention on that day — 7 working days (beginning with the first working day that occurs on or after that day); or
 - (b) in any other case — 28 days.

Note If the Minister gives a person a document by a method specified in section 494B of the Act, the person is taken to have received the document at the time specified in section 494C of the Act in respect of the method.

- (3) Subject to this regulation, an application must be lodged at a registry of the Tribunal:
 - (a) by posting the application to that registry; or
 - (b) by leaving it at that registry in a box designated for the lodgment of such applications; or
 - (c) by leaving it with a person employed at that registry and authorised to receive such documents; or
 - (d) by means of electronic facsimile transmission to that registry.
- (4) An application posted in accordance with paragraph (3) (a) or transmitted in accordance with paragraph (3) (d) is not to be taken to have been lodged until it is received at a registry of the Tribunal.

Regulation 4.31A

4.31A Combined applications for review by the Tribunal

- (1) If:
 - (a) 2 or more applicants have combined their primary applications for a Protection (Class XA) visa in a way permitted by Schedule 1 or regulation 2.08, 2.08A or 2.08B; and
 - (b) the Minister's decisions in respect of 2 or more of those applicants are that Protection (Class XA) visas not be granted; and
 - (c) the Minister's decisions are RRT-reviewable decisions; the applicants referred to in paragraph (b) may combine their applications for review by the Tribunal of the Minister's decisions.
- (2) Subregulation (1) applies to an application for review made on or after 1 August 1996.

4.31B Review by the Tribunal — fee and waiver

- (1) The fee for review by the Tribunal of an RRT-reviewable decision is:
 - (a) if the application for review was made before 1 July 2003 — \$1 000; or
 - (b) if the application for review was made on or after 1 July 2003 — \$1 400.

- (2) The fee is payable within 7 days of the time when notice of the decision of the Tribunal is taken to be received by the applicant in accordance with section 441C of the Act.

Note Under regulation 4.40, notice of a decision of the Tribunal is given by one of the methods specified in section 441A of the Act.

- (3) However, if:
 - (a) the Tribunal determines that the applicant for the visa that was the subject of the review is a person to whom Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol — the fee is not payable; and

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- (b) a fee has been paid under this regulation and, following the Tribunal's determination, the matter in relation to which the fee was paid is remitted by a court for reconsideration by the Tribunal — no further fee is payable under this regulation.
- (4) If 2 or more applications for review are combined in accordance with regulation 4.31A, only 1 fee is payable for reviews that result from those applications.
- (5) This regulation applies in relation to a review of a decision only if the application for review was made on or after 1 July 1997.

4.31C Refund (or waiver) of fee for review by the Tribunal

- (1) This regulation applies to a review of a decision if:
 - (a) both:
 - (i) on review by a court, the decision is remitted for reconsideration by the Tribunal; and
 - (ii) the Tribunal determines that the applicant for the visa that was the subject of the review is a person to whom Australia has protection obligations under the Refugees Convention as amended by the Refugees Protocol; or
 - (b) the Minister, under section 417 of the Act, has substituted for the decision of the Tribunal a decision that is favourable to the applicant.
- (2) A fee paid under regulation 4.31B, or liable to be paid under regulation 4.31B, in relation to a decision to which this regulation applies is to be refunded, or waived, as the case requires.

4.32 Notice of lodgment of application — person in immigration detention

- (1) This regulation applies in the case of an application for review of an RRT-reviewable decision that is lodged by or for a person who is in immigration detention.

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- (2) The person lodging it must give notice in writing, in accordance with subregulation (3), to an officer of Immigration appointed by the Secretary to be a detention review officer in the relevant State or Territory.
- (3) The notice must:
 - (a) be given to the officer on the day on which the application is lodged; and
 - (b) state:
 - (i) the nature of the application and the name of the person in respect of whom it was lodged; and
 - (ii) the registry at which it was lodged; and
 - (iii) if the applicant is assisted by an agent (whether or not a registered agent within the meaning of Part 3 of the Act), the agent's name and address; and
 - (iv) the manner in which the application has been lodged (being a manner specified in subregulation 4.31 (3)).
- (4) Failure to comply with this regulation does not affect the validity of an application.

4.33 Powers of Tribunal

- (1) For the purposes of paragraph 415 (2) (c) of the Act, an application for a Protection (Class XA) visa is prescribed.
- (2) For the purposes of paragraphs 415 (2) (c) of the Act and 43 (1A) (c) of the *Administrative Appeals Tribunal Act 1975* (as substituted in relation to an RRT-reviewable decision by section 452 of the Act), it is a permissible direction that the applicant must be taken to have satisfied the criteria for the visa that are specified in the direction.
- (3) For paragraph 415 (2) (c) of the Act and paragraph 43 (1A) (c) of the *Administrative Appeals Tribunal Act 1975* (as substituted in relation to an RRT-reviewable decision by section 452 of the Act):
 - (a) it is a permissible direction that the applicant satisfies each matter, specified in the direction, that relates to establishing whether the applicant is a person to whom Australia has protection obligations under the 1951

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Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees; but

- (b) it is not a permissible direction that the applicant satisfies a matter specified in Article 1F, 32 or 33 (2) of the Convention.

4.34 Statement about decision under review — number of copies

For the purposes of subsection 418 (2) of the Act, the prescribed number of copies of a statement of the kind mentioned in that subsection is 1.

4.35 Prescribed periods — invitation to comment or give additional information (Act, s 424B (2))

- (1) This regulation applies, for subsection 424B (2) of the Act, if a person is invited to give additional information, or to comment on information, other than at an interview.

(2) If:

- (a) the invitation relates to an application for review of a decision that applies to a detainee; and
- (b) the information or comment to which the invitation relates is to be provided from a place in Australia;

the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 7 days after the day on which the invitation is received.

(3) If:

- (a) the invitation relates to an application for review of a decision that does not apply to a detainee; and
- (b) the information or comment to which the invitation relates is to be provided from a place in Australia;

the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 14 days after the day on which the invitation is received.

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- (4) If:
- (a) the invitation relates to an application for review of a decision that applies to a detainee; and
 - (b) the information or comment to which the invitation relates is to be provided from a place that is not in Australia;
- the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 28 days after the day on which the invitation is received.
- (5) If:
- (a) the invitation relates to an application for review of a decision that applies to a person who is not a detainee; and
 - (b) the information or comment to which the invitation relates is to be provided from a place that is not in Australia;
- the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 28 days after the day on which the invitation is received.
- (6) A response to the invitation is taken to be given to the Tribunal when a registry of the Tribunal receives the response.

Note 1 If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.35A Prescribed periods — invitation to comment or give additional information (Act, s 424B (3))

- (1) This regulation applies, for paragraph 424B (3) (b) of the Act, if a person is invited to give additional information, or to comment on information, at an interview.
- (2) If the invitation relates to an application for review of a decision that applies to a detainee, the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 14 days after the day on which the invitation is received.

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- (3) If the invitation relates to an application for review of a decision that does not apply to a detainee, the prescribed period for giving the information or comments starts when the person receives the invitation and ends at the end of 28 days after the day on which the invitation is received.

Note 1 If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.35B Prescribed periods — invitation to comment or give additional information (Act, s 424B (4))

- (1) This regulation applies, for subsection 424B (4) of the Act, if:
- (a) a person is invited to give additional information, or to comment on information, within a period prescribed in regulation 4.35; and
 - (b) the invitation is to give the information or comments other than at an interview; and
 - (c) the prescribed period is to be extended by the Tribunal.
- (2) If the information or comment to which the invitation relates is to be provided from a place in Australia, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 28 days after the day on which the notice is received.
- (3) If the information or comment to which the invitation relates is to be provided from a place that is not in Australia, the period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 70 days after the day on which the notice is received.
- (4) A response to the invitation is taken to be given to the Tribunal when a registry of the Tribunal receives the response.

Note 1 If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

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4.35C Prescribed periods — invitation to comment or give additional information (Act, s 424B (5))

- (1) This regulation applies, for paragraph 424B (5) (b) of the Act, if:
 - (a) a person is invited to give additional information, or to comment on information, within a period prescribed in regulation 4.35A; and
 - (b) the invitation is to give the information or comments at an interview; and
 - (c) the prescribed period is to be extended by the Tribunal.
- (2) The period by which the Tribunal may extend the prescribed period starts when the person receives notice of the extended period and ends at the end of 28 days after the day on which the notice is received.

Note 1 If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.35D Prescribed periods — notice to appear before Tribunal (Act, s 425A)

For subsection 425A (3) of the Act, the prescribed period:

- (a) if the applicant is a detainee — starts when the applicant receives notice of the invitation to appear before the Tribunal and ends at the end of 7 days after the day on which the notice is received; or
- (b) in any other case — starts when the applicant receives notice of the invitation to appear before the Tribunal and ends at the end of 14 days after the day on which the notice is received.

Note 1 If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

4.35E Prescribed period — notice of handing down of Tribunal decisions (Act, s 430A)

For subsection 430A (3) of the Act, the prescribed period:

- (a) starts when the Tribunal gives the applicant notice of the day on which, and the time and place at which, the decision is to be handed down; and
- (b) ends at the end of 7 days after the day on which notice is received.

Note If the Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

4.36 Duties, powers and functions of officers of Tribunal

Each officer of the Tribunal has the following duties, powers and functions:

- (a) the issuing of a summons by the Tribunal under paragraph 427 (3) (a) or (b) of the Act;
- (b) the obtaining of documents in connection with the review of an RRT-reviewable decision;
- (c) the directing of attendance at a registry of the Tribunal in connection with the review of an RRT-reviewable decision.

4.37 Fees and allowances for persons giving evidence

- (1) For the purposes of subsection 436 (1) of the Act, the fees and allowances for expenses to be paid to a person summoned to appear before the Tribunal in relation to a review by the Tribunal are the fees and allowances in accordance with the scale in Schedule 2 to the Administrative Appeals Tribunal Regulations as in force from time to time.
- (2) The principal member of the Tribunal is to determine the fees and allowances (if any) payable to a person under subregulation (1).

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Division 4.3 Service of documents

4.38 Definition for Division 4.3

In this Division:

Tribunal means the Migration Review Tribunal or the Refugee Review Tribunal.

4.39 Address for service

(1) In this regulation:

lodge an address for service, in relation to an applicant for review, means give the Tribunal notice in writing of an address at which documents relating to a review may be sent to the applicant.

(2) An applicant for review may:

- (a) lodge an address for service in a review; and
- (b) at any time after lodging an address for service, lodge a new address for service in that review.

(3) If an applicant for review lodges with the Tribunal a new address for service under paragraph (2) (b):

- (a) that new address becomes the applicant for review's address for service in the review; and
- (b) he or she must, immediately after doing so, serve on the Minister a notice of that new address for service.

(4) An address for service may be, but need not be, the applicant's residential address.

4.40 Notice of decision of Tribunal

(1) A notice or statement to be given to an applicant in relation to a decision of the Migration Review Tribunal must be given by one of the methods specified in section 379A of the Act.

Note 1 If the Migration Review Tribunal gives a person a document by a method specified in section 379A of the Act, the person is taken to have received the document at the time specified in section 379C of the Act in respect of the method.

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Note 2 A document served on a person in immigration detention is served in the manner specified in regulation 5.02.

- (2) A notice or statement to be given to an applicant in relation to a decision of the Refugee Review Tribunal must be given by one of the methods specified in section 441A of the Act.

Note 1 If the Refugee Review Tribunal gives a person a document by a method specified in section 441A of the Act, the person is taken to have received the document at the time specified in section 441C of the Act in respect of the method.

Note 2 A document given to a person in immigration detention is given in the manner specified in regulation 5.02.

Regulation 5.01

Part 5 Miscellaneous

Division 5.1 Service of documents

5.01 Definition for Division 5.1

In this Division:

document includes:

- (a) a letter; and
- (b) an invitation, notice, notification, statement or summons, if it is in writing.

5.02 Service of document on person in immigration detention

For the purposes of the Act and these Regulations, a document to be served on a person in immigration detention may be served by giving it to the person himself or herself, or to another person authorised by him or her to receive documents on his or her behalf.

Division 5.2 Procedure of commissioners and prescribed authorities

Note If a person is proposed to be deported because he or she was convicted of certain serious offences (set out in section 203 of the Act), he or she may ask the Minister to appoint a Commissioner to inquire into whether the grounds for the deportation have been made out.

Section 253 of the Act provides that if a person arrested as a deportee asserts that he or she is not the person named in the deportation order, and makes a statutory declaration saying so, the person must be taken before a prescribed authority, who must inquire into whether there are reasonable grounds for supposing the person to be a deportee. The persons who may be prescribed authorities are set out in section 255 and include a judge or former judge, a legal practitioner of at least 5 years' standing, and a magistrate.

5.04 Power of Commissioner to send for witnesses and documents

A Commissioner appointed under subsection 203 (4) of the Act (which deals with the appointment of commissioners) may, by writing signed by the Commissioner, summon any person:

- (a) to attend before the Commissioner at a time and place specified in the summons; and
- (b) to give evidence; and
- (c) to produce any books or documents in the person's custody or control which the person is required by the summons to produce.

5.05 Duty of witness to continue in attendance

- (1) A person who has been summoned to attend before a Commissioner as a witness must appear and report from day to day, unless excused by the Commissioner.

Penalty: 10 penalty units.

- (2) Strict liability applies to subregulation (1).

5.06 Arrest of witness failing to appear

- (1) If a person who has been summoned to attend before a Commissioner fails:
 - (a) to attend before the Commissioner as required by the summons; or
 - (b) to appear and report in accordance with regulation 5.05; the Commissioner may, on being satisfied that the summons has been duly served and that reasonable expenses have been paid or tendered to the person, issue a warrant for the person's arrest.
- (2) A warrant authorises:
 - (a) the arrest and bringing before the Commissioner of the person; and
 - (b) the detention of the person in custody for the purposes specified in the warrant until the person is released by order of the Commissioner.

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- (3) A warrant may be executed by a member of the police force of the Commonwealth or of a State or Territory or by any person to whom it is addressed, and the person executing it has power to break and enter any place, building or vessel, using any force that is necessary and reasonable, for the purpose of executing the warrant.
- (4) The arrest of a person under this regulation does not relieve that person from any liability incurred by the person because of the failure of that person to attend before the Commissioner.

5.07 Witnesses' fees

- (1) A person who attends to give evidence before a Commissioner is, in respect of that attendance, to be paid such fees and travelling expenses as the Commissioner allows in accordance with the scale in Schedule 2 to the Public Works Committee Regulations as in force from time to time.
- (2) The fees and travelling expenses are payable:
 - (a) in the case of a witness summoned at the request of the person to whom the investigation relates — by that person; and
 - (b) in any other case — by the Commonwealth.

5.08 Power to examine on oath or affirmation

- (1) A Commissioner may administer an oath to a person appearing as a witness before the Commissioner, whether the witness has been summoned or appears without being summoned, and may examine the witness on oath.
- (2) If a witness conscientiously objects to swear an oath, the witness may make an affirmation that the witness conscientiously objects to swear an oath and that the witness will state the truth, the whole truth, and nothing but the truth to all questions the witness is asked.
- (3) An affirmation so made is of the same force and effect, and entails the same liabilities, as an oath.

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5.09 Offences by witnesses

- (1) A person summoned to attend before a Commissioner as a witness must not:
 - (a) fail to attend, after payment or tender to the person of a reasonable sum for expenses of attendance; or
 - (b) refuse to be sworn or to make an affirmation as a witness; or
 - (c) refuse to answer any question when required to do so by the Commissioner; or
 - (d) refuse or fail to produce a book or document which the person was required by the summons to produce.

Penalty: 10 penalty units.

- (2) Paragraphs (1) (a) and (d) do not apply if the person has a reasonable excuse.

Note A defendant bears an evidential burden in relation to the matter in subregulation (2) (see subsection 13.3 (3) of the *Criminal Code*).

- (3) Strict liability applies to paragraph (1) (a).

5.10 Statements of person not admissible in evidence against the person

A statement or disclosure made by a person in answer to a question put to the person during an investigation by a Commissioner is not admissible in evidence against the person in any civil or criminal proceedings other than:

- (a) proceedings in respect of a false answer; or
- (b) proceedings relating to the deportation of the person.

5.11 Representation by counsel etc

- (1) In an investigation before a Commissioner, the person summoned to appear and the Minister are each entitled to be represented by a barrister or solicitor or by an agent approved by the Commissioner.
- (2) A barrister, solicitor or agent appearing before a Commissioner may examine or cross-examine witnesses and address the Commissioner.

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5.12 Offences in relation to Commissioners

A person must not:

- (a) intentionally insult or disturb a Commissioner when exercising powers and functions under the Act; or
- (b) interrupt the proceedings of a Commissioner; or
- (c) use insulting language towards a Commissioner; or
- (d) by writing or speech use words calculated to influence dishonestly a Commissioner or a witness before a Commissioner.

Penalty: 10 penalty units.

5.13 Protection of Commissioners, barristers and witnesses

- (1) A Commissioner has, in the performance of the duties of a Commissioner, the same protection and immunity as a Justice of the High Court.
- (2) A barrister, solicitor or approved agent appearing before a Commissioner has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.
- (3) A witness summoned to attend, or appearing, before a Commissioner has the same protection as a witness in proceedings in the High Court.

5.14 Procedure of prescribed authorities

This Part applies to:

- (a) prescribed authorities referred to in section 255 of the Act; and
- (b) proceedings before those prescribed authorities under section 253 of the Act;

in the same manner as it applies to Commissioners and proceedings before Commissioners and as if references in those provisions to a Commissioner were references to a prescribed authority.

Division 5.3 General

5.15 Behaviour concern non-citizen

For the purposes of paragraph (e) of the definition of *behaviour concern non-citizen* in subsection 5 (1) of the Act, each of the following circumstances is prescribed in relation to the exclusion of a person from a country other than Australia:

- (a) that the person refused or failed to present a passport on request by the competent authorities in that country in circumstances in which it would be unreasonable to refuse or fail to do so;
- (b) that the person presented to those authorities a passport that was a bogus document;
- (c) that the person was reasonably refused entry to that country on the ground that the person was not a genuine visitor;
- (d) that the authorities of that country considered the person to be a threat to the national security of the country.

5.15A Certain New Zealand citizens

For the purposes of paragraph 32 (2) (c) of the Act, it is declared that the class of persons each of whom:

- (a) is a New Zealand citizen who holds, and has presented to an officer, a New Zealand passport that is in force; and
- (b) is not a health concern non-citizen; and
- (c) is a behaviour concern non-citizen only because of having been excluded from a country other than Australia in circumstances that, in the opinion of the Minister, do not warrant the exclusion of the person from Australia;

is a class of persons for whom a visa of a class other than Special Category (Temporary) (Class TY) would be inappropriate.

5.15C Excised offshore places

- (1) For paragraph (d) of the definition of *excised offshore place* in subsection 5 (1) of the Act, the Coral Sea Islands Territory is prescribed.

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- (2) For paragraph (e) of the definition of *excised offshore place* in subsection 5 (1) of the Act, the following islands are prescribed:
- (a) all islands that:
 - (i) form part of Queensland; and
 - (ii) are north of latitude 21° south;
 - (b) all islands that:
 - (i) form part of Western Australia; and
 - (ii) are north of latitude 23° south;
 - (c) all islands that:
 - (i) form part of the Northern Territory; and
 - (ii) are north of latitude 16° south.

**5.16 Prescribed diseases — health concern non-citizen
(Act, s 5 (1))**

For the purposes of the definition of *health concern non-citizen* in subsection 5 (1) of the Act, tuberculosis (being tuberculosis that is not being controlled with medication, and in respect of which the person suffering from it refuses to sign an undertaking to visit a Commonwealth Medical Officer within 7 days of entering Australia) is a prescribed disease.

**5.17 Prescribed evidence of English language proficiency
(Act, s 5 (2) (b))**

For the purposes of paragraph 5 (2) (b) of the Act (dealing with whether a person has functional English), the evidence referred to in each of the following paragraphs is prescribed evidence of the English language proficiency of a person:

- (a) evidence that the person has a qualification or experience, or has attained test results, set out in column 2 of an item in Part 3 of Schedule 6, being a qualification, experience or test results in relation to which 10 points or more is specified in column 3 of that item;
- (b) evidence that the person has been awarded 10 or more points under Part 3 of Schedule 6 (including points awarded because of a determination by the Minister under subregulation 2.26 (4));

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- (c) evidence that:
 - (i) the person holds an award (being a degree, a higher degree, a diploma or a trade certificate) that required at least 2 years of full-time study or training; and
 - (ii) all instruction (including instruction received in other courses for which the person was allowed credit) for that award was conducted in English;
- (e) evidence that the person has attained the functional level of the ACCESS test, being evidence in the form of a copy of results of a test:
 - (i) completed not more than 12 months before the person applies for the grant of a visa in relation to which those results are relevant; or
 - (ii) completed after the application is made;and certified by the body that conducted the test as the results of the test of the person;
- (f) evidence that the person has been assessed as having functional English by the provider of a course that is an approved English course for the purposes of section 4 of the *Immigration (Education) Act 1971*;
- (h) in the case of a person who is an applicant for a Business Skills — Established Business (Residence) (Class BH) visa — evidence that the person has a score of at least 20 points under Part 3 of Schedule 7, being a score awarded on the basis of an interview of the person for the purpose of ascertaining that score;
- (j) if:
 - (i) the person is an applicant for a visa of a class that is not mentioned in paragraph (h); and
 - (ii) evidence referred to in paragraph (a) cannot be provided by the person; and
 - (iii) it is not reasonably practicable for the person to attend at a place where, or time when, he or she could be subjected to a test mentioned in paragraph (e) or (f);evidence that the person has been determined by the Minister, on the basis of an interview with the person, to have functional English.

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**5.18 Prescribed laws relating to control of fishing
(Act, s 262 (b))**

For the purposes of paragraph 262 (b) of the Act (specifying laws that, if broken by a non-citizen in certain circumstances, will render the non-citizen liable to repay costs to the Commonwealth), the following laws are prescribed:

- (a) the following laws of the Commonwealth:
 - (i) the *Continental Shelf (Living Natural Resources) Act 1968*;
 - (ii) the *Fisheries Act 1952*;
 - (iii) the *Fisheries Management Act 1991*;
 - (iv) the *Torres Strait Fisheries Act 1984*;
- (b) the following laws of Queensland:
 - (i) the *Fisheries Act 1976*;
 - (ii) the *Fishing Industry Organisation and Marketing Act 1982*;
- (c) the *Fisheries Act 1905* of Western Australia.

5.19 Approval of nominated positions (employer nomination)

- (1) An employer may apply to the Minister for approval of a nominated position as an ***approved appointment***.
 - (1A) Application must be:
 - (a) made in accordance with approved form 785 or 1054; and
 - (b) accompanied by the fee prescribed in regulation 5.37.
 - (1B) The Minister may, in writing, approve or reject an application.
 - (1C) However:
 - (a) the Minister must approve an application if:
 - (i) the application is made in accordance with subregulation (1A); and
 - (ii) the nominated position is the subject of an employer nomination that:
 - (A) if the application was made using form 785 — meets the requirements of subregulation (2); or

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- (B) if the application was made using form 1054 — meets the requirements of subregulation (4); and
 - (iii) the employer is not the subject of an action that is described in section 140L of the Act; and
 - (b) the Minister must reject an application if any of the requirements in paragraph (a) is not met.
- (1D) As soon as practicable after deciding an application, the Minister must give the employer:
- (a) a copy of the written approval or rejection of the application; and
 - (b) if the application is rejected:
 - (i) a written statement of the reasons why the application was rejected; and
 - (ii) a written statement that the decision is an MRT-reviewable decision.

Note Division 4.1 deals with review of decisions. Paragraph 4.02 (4) (e) provides that a decision under subregulation 5.19 (1B) to reject an application is an **MRT-reviewable decision**. **MRT-reviewable decision** is defined in Division 2 of Part 5 of the Act.

- (2) An employer nomination meets the requirements of this subregulation if:
- (a) the employer nomination is made by an employer in respect of a need for a paid employee (the **employee**) in a business:
 - (i) actively and lawfully operating in Australia; and
 - (ii) operated by that employer; and
 - (b) the Minister is satisfied that nothing adverse is known to Immigration about the business background of:
 - (i) the employer; or
 - (ii) any officer of any of the entities that constitute the employer; or
 - (iii) any individual who is a member of a partnership that is 1 of the entities that constitute the employer; and
 - (c) the Minister is satisfied that the employer has a satisfactory record of compliance with the immigration laws of Australia; and

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- (d) the Minister is satisfied that the employer has a satisfactory record of compliance with workplace relations laws of:
 - (i) the Commonwealth; and
 - (ii) each State or Territory in which the employer operates the business and has employees of that business; and
- (e) the Minister is satisfied:
 - (i) that the employer has made, and continues to make, adequate provision for training existing employees in work relevant to the business; or
 - (ii) if the business is newly established, that the employer is making adequate provision for future training of employees in work relevant to the business; and
- (f) the appointment will:
 - (i) provide the employee with full-time employment; and
 - (ii) be for at least 3 years, and not subject to any express exclusion of the possibility of renewal; and
- (g) the employee's working conditions will be no less favourable than working conditions provided for under relevant Australian legislation and awards; and
- (h) the tasks to be performed in the nominated position:
 - (i) correspond to the tasks of an occupation specified in a Gazette Notice in force for this subparagraph at the time at which the application for approval of the nominated position is made; and
 - (ii) will be carried out in a location specified, for the relevant occupation, in a Gazette Notice in force for this subparagraph at the time at which the application for approval of the nominated position is made; and
- (i) the employee will be paid a salary in the nominated position that is at least the salary specified, for the relevant occupation and location, in a Gazette Notice in force for this paragraph at the time at which the application for approval of the nominated position is made.

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- (4) An employer nomination meets the requirements of this subregulation if:
- (a) the employer nomination is made by an employer in respect of a need for a paid employee in a business that is:
 - (i) actively and lawfully operating in regional Australia; and
 - (ii) operated by that employer; and
 - (b) either:
 - (i) the appointment:
 - (A) will provide the employee with full-time employment; and
 - (B) will be for at least 2 years; and
 - (C) will be located in regional Australia; or
 - (ii) if the employer nomination relates to a person designated under regulation 2.07AO — the appointment:
 - (A) will provide the employee with either continuing full-time employment or seasonal employment that will continue; and
 - (B) is in accordance with the employment the employee has undertaken in regional Australia over the previous 12 months; and
 - (C) will be located in regional Australia; and
 - (c) unless the appointment is exceptional, the work to be performed requires the appointment of a person who has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification; and
 - (d) the employee is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards; and
 - (e) a body specified by Gazette Notice for this paragraph certifies that the employer nomination meets the requirements of paragraphs (a), (b) and (c); and
 - (f) the Minister is satisfied that nothing adverse is known to Immigration about the business background of:
 - (i) the employer; or

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- (ii) any officer of any of the entities that constitute the employer; or
 - (iii) any individual who is a member of a partnership that is 1 of the entities that constitute the employer; and
 - (g) the Minister is satisfied that the employer has a satisfactory record of compliance with the immigration laws of Australia; and
 - (h) the Minister is satisfied that the employer has a satisfactory record of compliance with workplace relations laws of:
 - (i) the Commonwealth; and
 - (ii) each State or Territory in which the employer operates the business and has employees of that business.
- (5) In this regulation:
regional Australia means a part of Australia specified by Gazette Notice for this definition.

5.19A Designated investment

- (1) Subject to subregulation (2), the Minister may specify by Gazette Notice a security issued by an Australian State or Territory government authority as a security in which an investment is a designated investment for the purposes of a Part of Schedule 2.
- (2) The Minister may so specify a security if and only if:
 - (a) an investment in the security matures in not less than 4 years from its date of issue; and
 - (b) repayment of principal is guaranteed by the issuing authority; and
 - (c) an investment in the security cannot be transferred or redeemed before maturity except by operation of law or under other conditions acceptable to the Minister; and
 - (d) investment in the security is open to the general public at commercially competitive rates of return; and

- (e) the Minister is satisfied that the Commonwealth will not be exposed to any liability as a result of an investment in the security by a person.

Division 5.4 Prescribed penalties

5.20 Prescribed penalties (Act, ss 137, 229 and 230, and subsection 245N (2))

- (1) For paragraph 504 (1) (i) of the Act (which authorises the Regulations to set penalties as an alternative to prosecution), the prescribed penalty for an offence against section 137 of the Act is:
 - (a) in the case of a failure by a person to supply the person's address — \$250; or
 - (b) in any other case — \$1 000.
- (2) For paragraph 504 (1) (j) of the Act, the prescribed penalty to be paid as an alternative to prosecution for a contravention of section 229 or 230 of the Act is:
 - (a) in the case of a natural person — \$3 000; or
 - (b) in the case of a body corporate — \$5 000.
- (3) For paragraph 504 (1) (jaa) of the Act, the prescribed penalty to be paid as an alternative to prosecution for a contravention of subsection 245N (2) of the Act is 10 penalty units.

Note Section 137 permits the Secretary to require information from the holder of a business visa.

Section 229 prohibits the carrying of persons to Australia without visas.

Section 230 makes it an offence to have an unlawful non-citizen concealed on a vessel entering Australia.

Subsection 245L (2) establishes an obligation on an operator of an aircraft or ship to report to the Department about passengers and crew prior to their arrival in Australia.

Subsection 245N (2) makes it an offence for an operator of an aircraft or ship to contravene subsection 245L (2).

Regulation 5.21

Division 5.5 Infringement notices

5.21 Interpretation

- (1) In this Division:

authorised officer includes the Secretary.

business visa has the same meaning as in section 137 of the Act.

infringement notice means a notice under regulation 5.22.

offence means a contravention of:

- (a) section 137, 229 or 230 of the Act; or
- (b) subsection 245N (2) of the Act.

prescribed penalty, in relation to an offence, means the prescribed penalty prescribed by regulation 5.20 in relation to the offence.

Note Section 137 permits the Secretary to require information from the holder of a business visa.

Section 229 prohibits the carrying of persons to Australia without visas.

Section 230 makes it an offence to have an unlawful non-citizen concealed on a vessel entering Australia.

Subsection 245L (2) establishes an obligation on an operator of an aircraft or ship to report to the Department about passengers and crew prior to their arrival in Australia.

Subsection 245N (2) makes it an offence for an operator of an aircraft or ship to contravene subsection 245L (2).

5.22 When can an infringement notice be served?

If an authorised officer has reason to believe that a person has committed an offence, he or she may cause an infringement notice to be served on the person in accordance with this Division.

5.23 What must an infringement notice contain?

- (1) An infringement notice must:

- (a) state the name of the authorised officer who caused the notice to be served; and

Regulation 5.25

- (b) set out:
 - (i) the day on which the offence is alleged to have been committed; and
 - (ii) if the offence is against section 229 or 230 of the Act, the place at which the offence is alleged to have been committed; and
 - (c) give brief particulars of the alleged offence; and
 - (d) set out the prescribed penalty; and
 - (e) state that, if the person on whom it is served does not wish the matter to be dealt with by a court, he or she may pay that penalty within 28 days after the date of service of the notice unless the notice is withdrawn before the end of that period; and
 - (f) specify where and how that penalty may be paid; and
 - (g) set out the procedures relating to the withdrawal of notices and the consequences of the withdrawal of a notice.
- (2) An infringement notice may contain any other particulars that the authorised officer considers necessary.

5.24 Can the time for payment be extended?

If an infringement notice has been served on a person, an authorised officer may, if he or she is satisfied that in all the circumstances it is proper to do so, allow a further period for payment of the prescribed penalty, whether or not the period of 28 days after the date of service of the notice has expired.

5.25 What happens if the prescribed penalty is paid?

If the person on whom an infringement notice is served pays the prescribed penalty in relation to the alleged offence before:

- (a) the end of:
 - (i) the period of 28 days after the date of service of the notice; or
 - (ii) if a further period has been allowed under regulation 5.24 — that further period; or
 - (b) the notice is withdrawn;
- whichever happens first, then:

Regulation 5.26

- (c) any liability of the person in respect of the alleged offence is discharged; and
- (d) no further proceedings may be taken in respect of the alleged offence; and
- (e) the person is not to be taken to have been convicted of the alleged offence.

5.26 Can an infringement notice be withdrawn?

- (1) If an infringement notice has been served on a person, an authorised officer may withdraw it by notice in writing served on the person in accordance with these Regulations, at any time before:
 - (a) the end of 28 days after the date of service of the notice; or
 - (b) if a further period has been allowed under regulation 5.24 — the end of that further period.
- (2) An infringement notice for an alleged offence against section 229 or 230 of the Act must not be withdrawn under subregulation (1) after the expiry of 3 months commencing on the day on which the notice was served.

5.27 Refund of prescribed penalty if notice withdrawn

If:

- (a) an infringement notice has been served on a person; and
 - (b) the person has paid the prescribed penalty in accordance with the notice; and
 - (c) the notice is subsequently withdrawn;
- an authorised officer must arrange for the refund to the person of an amount equal to the amount so paid.

5.28 Evidence

- (1) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised officer and stating:
 - (a) that the authorised officer did not allow further time under regulation 5.24 for payment of the penalty specified in the notice; and

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(b) that the penalty has not been paid in accordance with the notice within 28 days after the date of service of the notice;

is evidence of those matters.

(2) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised officer and stating:

(a) that the authorised officer allowed, under regulation 5.24, the further time specified in the certificate for payment of the prescribed penalty; and

(b) that the penalty has not been paid in accordance with the notice or within the further time allowed;

is evidence of those matters.

(3) At the hearing of a prosecution for an offence specified in an infringement notice, a certificate signed by an authorised officer and stating that the notice was withdrawn on a day specified in the certificate is evidence of that fact.

(4) A certificate that purports to have been signed by an authorised officer is taken to have been signed by that person unless the contrary is proved.

5.29 Can there be more than one infringement notice for the same offence?

This Division does not prevent more than one infringement notice being served on a person for the same offence, but regulation 5.25 applies to the person if the person pays the prescribed penalty in accordance with one of the infringement notices.

5.30 What if payment is made by cheque?

If a cheque is offered to Immigration as payment of all or part of the amount of a penalty specified in an infringement notice, payment is taken not to have been made unless the cheque is honoured upon presentation.

Regulation 5.31

5.31 Infringement notice not compulsory

Nothing in this Division:

- (a) requires an infringement notice to be served on a person in relation to an offence; or
- (b) affects the liability of a person to be prosecuted for an offence if the person does not comply with an infringement notice; or
- (c) affects the liability of a person to be prosecuted for an offence if an infringement notice is not served on the person in relation to the offence; or
- (d) affects the liability of a person to be prosecuted for an offence if an infringement notice is served and withdrawn; or
- (e) limits the amount of the fine that may be imposed by a court on a person convicted of an offence.

Division 5.6 Miscellaneous

5.32 Search warrants (Act, ss 223 (14) and 251 (4))

- (1) A search warrant for the purposes of subsection 223 (14) of the Act (dealing with directions about, and seizure of, the valuables of non-citizens in detention) is to be in accordance with prescribed form 1.
- (2) A search warrant for the purposes of subsection 251 (4) of the Act (dealing with entry and search for unlawful non-citizens) is to be in accordance with prescribed form 2.

5.32A Work performed by unlawful non-citizen in detention centre

For subsection 235 (6) of the Act, the circumstance is that the work:

- (a) is performed by an unlawful non-citizen who is detained in a detention centre established under the Act; and
- (b) is allocated to the unlawful non-citizen, at the non-citizen's request, by an officer at the detention centre.

5.33 Document for purposes of s 274 (3) (a) of Act

A document for the purposes of paragraph 274 (3) (a) of the Act (dealing with documents relating to persons to be removed or deported from Australia) is to be in accordance with prescribed form 3.

5.34 Application of Chapter 2 of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies, on and after 1 November 2001, to offences against these Regulations.

5.34D Disclosure of information to prescribed bodies

For paragraph 336F (1) (d) of the Act (which deals with the authorised disclosure of identifying information to various bodies), a body of:

- (a) a foreign country; or
- (b) the Commonwealth; or
- (c) a State; or
- (d) a Territory;

that is specified by the Minister by Gazette Notice for this regulation is a prescribed body.

5.34E Disclosure of information to prescribed international organisations

For paragraph 336F (1) (e) of the Act (which deals with the authorised disclosure of identifying information to international organisations), an organisation that is specified by the Minister by Gazette Notice for this regulation is a prescribed international organisation.

5.35 Medical treatment of persons in detention under the Act

- (1) In this regulation:

detainee means a person held at a detention centre in detention under the Act.

Regulation 5.35

medical treatment includes:

- (a) the administration of nourishment and fluids; and
- (b) treatment in a hospital.

- (2) The Secretary may authorise medical treatment to be given to a detainee if:
 - (a) the Secretary, acting in person and on the written advice of:
 - (i) a Commonwealth Medical Officer; or
 - (ii) another registered medical practitioner;forms the opinion that:
 - (iii) that detainee needs medical treatment; and
 - (iv) if medical treatment is not given to that detainee, there will be a serious risk to his or her life or health; and
 - (b) that detainee fails to give, refuses to give, or is not reasonably capable of giving, consent to the medical treatment.
- (3) An authorisation by the Secretary under subregulation (2) is authority for the use of reasonable force (including the reasonable use of restraint and sedatives) for the purpose of giving medical treatment to a detainee.
- (4) A detainee to whom medical treatment is given under an authorisation under subregulation (2) is taken for all purposes to have consented to the treatment.
- (5) Medical treatment that is given under an authorisation under subregulation (2) must be given by, or in the presence of, a registered medical practitioner.
- (6) Nothing in this regulation authorises the Secretary to require a registered medical practitioner to act in a way contrary to the ethical, moral or religious convictions of that medical practitioner.

5.35AA Decisions that are not privative clause decisions

For subsection 474 (5) of the Act, a decision, or a decision included in a class of decisions, made under a provision of the Act set out in the following table is not a privative clause decision.

Item	Provision	Subject matter of provision
1	section 252AA	Power to conduct a screening procedure
2	section 252A	Power to conduct a strip search
3	section 252B	Rules for conducting a strip search
4	section 252C	Possession and retention of certain things obtained during a screening procedure or strip search
5	section 252D	Authorised officer may apply for a thing to be retained for a further period
6	section 252E	Magistrate may order that thing be retained
7	section 252G	Powers concerning entry to a detention centre
8	Division 13A of Part 2	Automatic forfeiture of things used in certain offences

Division 5.6A Powers under an agreement or arrangement with a foreign country

5.35A Definitions

In this Division:

place means any place in or outside Australia.

Regulation 5.35B

weapon includes any thing capable of being used to inflict bodily injury or to help an individual escape from restraint.

5.35B Exercise of power to restrain an individual

- (1) In the exercise of a power under this Division to restrain an individual, the officer:
 - (a) must not use more force, or subject the individual to greater indignity, than is reasonably necessary to exercise the power; and
 - (b) must not do anything likely to cause the individual grievous bodily harm unless the officer believes on reasonable grounds that doing the thing is necessary to protect life or prevent serious injury to the individual or another individual (including the officer).
- (2) In this regulation:
officer includes an individual assisting the officer.

5.35C Exercise of power to search an individual

- (1) This regulation applies to a search under this Division of an individual, clothing of an individual or property under the immediate control of an individual.
- (2) The purpose for which an individual, clothing of the individual or any property under the immediate control of the individual may be searched is to find out whether the individual is carrying a weapon, or a weapon is hidden on the individual, in the clothing or in the property.
- (3) This regulation does not authorise an officer, or another individual conducting a search under subregulation (4), to remove any of the individual's clothing, or to require an individual to remove any of his or her clothing, except the individual's outer garments (including but not limited to the individual's overcoat, coat, jacket, gloves, shoes and head covering).
- (4) A search of an individual, and the individual's clothing, must be conducted by:
 - (a) an officer of the same sex as the individual; or

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- (b) if an officer of the same sex as the individual is not available to conduct the search — any other individual who is of the same sex and:
 - (i) is requested by an officer; and
 - (ii) agrees;to conduct the search.
- (5) An officer or other individual who conducts a search to which this regulation applies must not use more force, or subject the individual to greater indignity, than is reasonably necessary to conduct the search.

5.35D Protection of persons when acts done in good faith

- (1) An action or proceeding, whether civil or criminal, does not lie, in respect of anything done in the exercise of a power under this Division to restrain an individual, against the Commonwealth, an officer or an individual assisting an officer if the officer or individual who does the thing acts in good faith and does not contravene regulation 5.35B.
- (2) An action or proceeding, whether civil or criminal, does not lie against an individual who, at the request of an officer under subregulation 5.35C (4), conducts a search under that subregulation if the individual acts in good faith and does not contravene subregulation 5.35C (5).

**5.35E Powers when boarding certain foreign ships
(Act s 245F (14))**

For subsection 245F (14) of the Act, the powers that the officer may exercise, consistently with the agreement or arrangement, are the powers to do the following:

- (a) search, without warrant:
 - (i) an individual on the ship; or
 - (ii) the clothing of the individual; or
 - (iii) any property under the immediate control of the individual;
- (b) take possession of any weapon for as long as the officer thinks necessary for the purposes of this regulation;

Regulation 5.35F

- (c) restrain any individual on board the ship for as long as the officer thinks necessary for the purposes of this regulation;
- (d) detain the ship for as long as the officer thinks necessary for the purposes of this regulation;
- (e) bring the ship, or cause it to be brought, to a place that the officer considers appropriate.

5.35F Powers when boarding certain foreign ships on the high seas (Act s 245G (4))

- (1) For subsection 245G (4) of the Act, the powers that the officer may exercise, consistently with the agreement or arrangement, are the powers to do the following:
 - (a) search the ship;
 - (b) search, without warrant:
 - (i) an individual on the ship; or
 - (ii) the clothing or the individual; or
 - (iii) any property under the immediate control of the individual;
 - (c) take possession of any weapon for as long as the officer thinks necessary for the purposes of this regulation;
 - (d) restrain any individual on board the ship for as long as the officer thinks necessary for the purposes of this regulation;
 - (e) detain the ship for as long as the officer thinks necessary for the purposes of this regulation;
 - (f) bring the ship, or cause it to be brought, to a port or other place that the officer considers appropriate;
 - (g) return to the ship any individual who:
 - (i) was on the ship when it was initially detained under paragraph (e); and
 - (ii) later leaves the ship.
- (2) Subject to this Division, an officer may use such force as is necessary and reasonable in the exercise of a power under this regulation.
- (3) In searching the ship, an officer must not damage the ship or any goods on the ship by forcing open a part of the ship or the goods unless:

Regulation 5.36

- (a) the individual (if any) apparently in charge of the ship has been given a reasonable opportunity to open that part or the goods; or
 - (b) it is not reasonably practical to give that individual such an opportunity.
- (4) An individual may be returned to a ship under paragraph (1)(g) only if the officer or individual assisting the officer is satisfied that it is safe to do so.

Division 5.7 Charges and fees

5.36 Payment of visa application charges, and fees, in foreign currencies

- (1) Payment of a fee, other than a visa application charge mentioned in subregulation (3A), must be made:
- (a) in a place, being Australia or a foreign country, that is specified for the purposes of this paragraph by Gazette Notice; and
 - (b) in a currency that is specified for the purposes of this paragraph by Gazette Notice as a currency in which a fee may be paid in that place.

Note **foreign country** is defined in paragraph 22 (1)(f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

- (1A) The amount of the payment is to be ascertained as follows:
- (a) if the currency in which the amount is to be paid is a currency for which an amount corresponding to the amount of the fee in Australian dollars is specified for the purposes of this paragraph by Gazette Notice — in accordance with the amount specified in the Gazette Notice that corresponds to the amount of the fee in Australian dollars;
 - (b) if the currency in which the amount is to be paid is any other currency — in accordance with the formula in subregulation (2).

Regulation 5.37

- (2) The formula is:

$$\text{AUD} \times \text{CER} \times 1.05$$

where:

AUD means the amount of the fee in Australian dollars.

CER means the highest exchange rate that is lawfully obtainable on a commercial basis for the purchase in the foreign country of Australian currency with the currency of the foreign country in a period that:

- (a) begins:
- (i) on the day when this regulation commences; or
 - (ii) on any subsequent day when that rate increases or decreases by at least 5%; and
- (b) ends at the end of each day before another period begins.
- (3) If the amount worked out by that formula cannot be paid wholly in banknotes of that country, the corresponding amount is that amount rounded up to the nearest larger amount that is payable wholly in banknotes of that country.
- (3A) A visa application charge payment made in accordance with regulation 2.12JA must be made in Australian dollars.
- (4) In this Regulation, *fee* means:
- (a) an instalment of the visa application charge; or
 - (b) a fee payable under these Regulations.

5.37 Employer nomination fee

- (1) The fee payable in respect of an employer nomination to which subregulation 5.19 (2) applies is \$445 and must be paid at the time the nomination is lodged.
- (2) No fee is payable in respect of an employer nomination to which subregulation 5.19 (4) applies.

5.38 Sponsorship fee

- (1) This regulation applies to sponsorship of an applicant if the applicant is applying for a temporary visa for which

Regulation 5.40

sponsorship is a requirement (other than a Subclass 426 (Domestic Worker (Diplomatic or Consular)) visa or a Sponsored (Visitor) (Class UL) visa).

- (2) Subject to subregulation (3), a fee is payable for seeking to be approved as a sponsor in respect of a sponsorship of an applicant to which this regulation applies, as follows:
 - (a) if the person or organisation is seeking to sponsor more than 10 applicants together — \$3 300;
 - (b) in any other case — \$330 for each applicant the person or organisation is seeking to sponsor.
- (3) If an application for a visa is not subject to a visa application charge, or a fee under these Regulations, no fee is payable for seeking to be approved as a sponsor in respect of that application.

5.40 Fees for assessment of a person's work qualifications and experience etc

- (1) The fee payable to an Agency within the meaning of the *Financial Management and Accountability Act 1997* for:
 - (a) an application for assessment, for the purposes of the Act, of a person's occupational qualifications or experience (or both); and
 - (b) an application for assessment, for the purposes of the Act, of a person's educational qualifications; and
 - (c) an application for internal review of an assessment;is the fee specified by the Minister in an instrument in writing for this regulation.
- (2) Subject to subregulation (3), if, on an internal review of an assessment, a review authority decides in favour of the applicant, the fee paid for the internal review is to be refunded.
- (3) A fee paid for an internal review is not to be refunded if the applicant provided evidence for the purposes of the review that was not provided for the purposes of the application for assessment.

Regulation 5.41

5.41 Fee for further opinion of Medical Officer of the Commonwealth in merits review

- (1) This regulation applies to a review by the Migration Review Tribunal of a refusal to grant a visa to a person, if:
 - (a) under regulation 2.25A, in determining whether the criteria for grant of the visa were satisfied, the Minister was required, to seek the opinion of a Medical Officer of the Commonwealth; and
 - (b) the refusal occurred wholly, or in part, because in the opinion of the Medical Officer of the Commonwealth, the person did not satisfy a requirement mentioned in subregulation 2.25A (1) or (2), as the case requires; and
 - (c) for the review — a further opinion of a Medical Officer of the Commonwealth is required.
- (2) There is payable, for the further opinion mentioned in paragraph (1) (c), a fee of \$520.

Division 5.8 Multiple parties in migration litigation

5.43 Meaning of *family* (Act s 486B)

For paragraph 486B (7) (a) of the Act, *family*, of an applicant in a migration proceeding, means:

- (a) the spouse or de facto partner of the applicant; and
- (b) the dependent children of the applicant.

5.44 Prescription of other persons (Act s 486B)

For paragraph 486B (7) (d) of the Act, the legal personal representative of a person who has a serious physical or mental incapacity and who is an applicant in a migration proceeding, or a member of the family of the applicant, is prescribed.

Schedule 1 **Classes of visas**

(regulations 2.02 and 2.07)

Note This Schedule sets out the specific ways in which a non-citizen applies for a visa of a particular class. An application that is not made as set out in this Schedule is not valid and will not be considered: see the Act, ss 45, 46 and 47.

Part 1 Permanent visas

Note Arrangements that affect certain visas mentioned in this Part can be found in regulation 2.12BC.

1104AA. Business Skills — Business Talent (Migrant) (Class EA)

- (1) Forms: 47BU, 1213 and 1224.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$4 905
 - (b) Second instalment (payable before grant of visa):
 - (i) For each applicant who:
 - (A) was at least 18 years old at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the primary criteria for the grant of a Subclass 132 (Business Talent) visa: \$7 040
 - (ii) For each applicant who:
 - (A) was at least 18 years old at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the secondary criteria for the grant of a Subclass 132 (Business Talent) visa: \$3 510
 - (iii) In any other case: Nil.

(3) Other:

(a) Application must be made:

- (i) if the applicant's residential address, given using form 47BU, is in PRC, including Hong Kong or Macau — at the address in Hong Kong specified in a Gazette Notice for this subparagraph; or
 - (ii) if the applicant's residential address, given using form 47BU, is in Taiwan — at the address in Taipei specified in a Gazette Notice for this subparagraph; or
 - (iii) if subparagraphs (i) and (ii) do not apply — at the address in Perth specified in a Gazette Notice for this subparagraph.
- (b) Applicant may be in or outside Australia, but not in immigration clearance.
- (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills — Business Talent (Migrant) (Class EA) visa may be made at the same time and place as, and combined with, the application by that person.
- (d) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 132 (Business Talent) visa:
- (i) applicant must be sponsored by a State or Territory; and
 - (ii) form 1224 must be signed by the Premier or Chief Minister, or by a person authorised by the Premier or Chief Minister, of that State or Territory.

(4) Subclasses:

132 (Business Talent)

**1104A. Business Skills — Established Business (Residence)
(Class BH)**

- (1) Forms: 47BU and 1138.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$4 905

(b) Second instalment (payable before grant of visa):

(i) In the case of each applicant who:

- (A) was 18 years or more at time of application;
and
- (B) is assessed as not having functional English;
and
- (C) satisfies the primary criteria for the grant of a visa of a subclass included in Business Skills — Established Business (Residence) (Class BH): \$7 040

(ii) In the case of each applicant who:

- (A) was 18 years or more at time of application;
and
- (B) is assessed as not having functional English;
and
- (C) satisfies the secondary criteria for the grant of a visa of a subclass included in Business Skills — Established Business (Residence) (Class BH): \$3 510

(iii) In any other case: Nil.

(3) Other:

- (a) Application must be made in Australia, but not in immigration clearance.
- (b) The applicant must be in Australia, but not in immigration clearance.
- (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills — Established Business (Residence) (Class BH) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

- 845 (Established Business in Australia)
- 846 (State/Territory Sponsored Regional Established Business in Australia)

1104B. Business Skills (Residence) (Class DF)

- (1) Forms:
 - (a) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 890 (Business Owner) visa: 47BU and 1217
 - (b) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 891 (Investor) visa: 47BU
 - (c) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa: 47BU, 1217 and 949
 - (d) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 893 (State/Territory Sponsored Investor) visa: 47BU and 949.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa: \$230.
 - (ii) In any other case: \$1 410.
 - (b) Second instalment (payable before grant of visa):
 - (i) For each applicant who:
 - (A) was at least 18 years old at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the secondary criteria for the grant of a visa of a subclass included in Business Skills (Residence) (Class DF); and
 - (D) is not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR); and
 - (E) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa: \$3 510
 - (ii) In any other case: Nil.

- (3) Other:
- (a) Application must be made in Australia, but not in immigration clearance.
 - (b) Applicant seeking to satisfy the primary criteria must be in Australia, but not in immigration clearance.
 - (c) Applicant seeking to satisfy the secondary criteria may be in or outside Australia, but not in immigration clearance.
 - (d) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 890 (Business Owner) visa must hold:
 - (i) if the applicant is not a person designated under regulation 2.07AO — a visa of a subclass included in Business Skills (Provisional) (Class UR), granted on the basis that the applicant, or the spouse or de facto partner of the applicant, or the former spouse or former de facto partner of the applicant, satisfied the primary criteria for the grant of the visa; or
 - (ii) if the applicant is a person designated under regulation 2.07AO:
 - (A) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or
 - (B) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or
 - (C) a Subclass 785 (Temporary Protection) visa; or
 - (D) a Subclass 695 (Return Pending) visa.
 - (e) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 891 (Investor) visa must hold a Subclass 162 (Investor (Provisional)) visa granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.
 - (f) For an applicant seeking to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa:
 - (i) if the applicant is not a person designated under regulation 2.07AO:
 - (A) applicant must hold a visa of a subclass included in Business Skills (Provisional)

- (Class UR), granted on the basis that the applicant, or the spouse or de facto partner of the applicant, or the former spouse or former de facto partner of the applicant, satisfied the primary criteria for the grant of the visa; or
- (B) applicant must hold a Subclass 457 (Business (Long Stay)) visa, granted on the basis that the applicant, or the spouse or de facto partner of the applicant, or the former spouse or former de facto partner of the applicant, satisfied the criteria in subclause 457.223 (7) or (7A) for the grant of the visa; or
- (C) applicant:
- (I) must hold a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (II) must have held a Skilled — Independent Regional (Provisional) (Class UX) visa at any time in the 28 days immediately before making the application; and
- (ii) if the applicant is a person designated under regulation 2.07AO, applicant must hold:
- (A) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or
 - (B) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or
 - (C) a Subclass 785 (Temporary Protection) visa; or
 - (D) a Subclass 695 (Return Pending) visa.
- (g) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 893 (State/Territory Sponsored Investor) visa must hold a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.
- (h) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills (Residence) (Class DF) visa may be made at the

same time and place as, and combined with, the application by that person.

- (i) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) or 893 (State/Territory Sponsored Investor) visa:
 - (i) applicant must be sponsored by an appropriate regional authority; and
 - (ii) form 949 must be signed by an officer of the authority who is authorised to sign a sponsorship of that kind.
- (j) If the applicant:
 - (i) is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; and
 - (ii) seeks to satisfy the primary criteria for the grant of a Subclass 892 (State/Territory Sponsored Business Owner) visa;

the applicant has held 1 or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.

(4) Subclasses:

- 890 (Business Owner)
- 891 (Investor)
- 892 (State/Territory Sponsored Business Owner)
- 893 (State/Territory Sponsored Investor)

1108. Child (Migrant) (Class AH)

- (1) Form: 47CH.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant whose brother or sister:
 - (A) applies for a Child (Migrant) (Class AH) visa at the same time and place as the applicant; and

- (B) has paid the amount of charge specified in subparagraph (ii) or (iii) on his or her application: Nil
 - (ii) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be an orphan relative: \$1 040
 - (iii) In any other case: \$1 705
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) Application must be made outside Australia.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Child (Migrant) (Class AH) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 101 (Child)
 - 102 (Adoption)
 - 117 (Orphan Relative)

1108A. Child (Residence) (Class BT)

- (1) Form: 47CH.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant whose brother or sister:
 - (A) applies for a Child (Residence) (Class BT) visa at the same time and place as the applicant; and
 - (B) has paid the amount of charge specified in subparagraph (ii) or (v) on his or her application: Nil
 - (ii) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be an orphan relative: \$1 040

- (iii) In the case of an applicant:
 - (A) whose parent has been granted a permanent visa; and
 - (B) who was included in the parent's application for:
 - (I) a Group 1.1 (migrant) visa under the Migration (1993) Regulations; or
 - (II) a business (joint venture) visa (code number 122) or a business (general) visa (code number 123) under the Migration (1989) Regulations: Nil
 - (iv) In the case of an applicant whose application is supported by a letter of support from a State or Territory government welfare authority: Nil
 - (v) In any other case: \$2 525
- (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Application by a person claiming to be a member of the family unit of a person (the *first applicant*) who is an applicant for a Child (Residence) (Class BT) visa:
 - (i) if subparagraph (ii) does not apply — may be made at the same time and place as, and combined with, the application made by the first applicant; and
 - (ii) if the first applicant's application for a Child (Residence) (Class BT) visa is supported by a letter of support from a State or Territory government welfare authority — may not be made at the same time and place as, and combined with, the application made by the first applicant; and
 - (d) Application by a person whose application is supported by a letter of support from a State or Territory government welfare authority may be made if the person is under 18 years of age at the time the application is made.

(4) Subclasses:

- 802 (Child)
- 837 (Orphan Relative)

(5) In this item:

letter of support means a letter of support provided by a State or Territory government welfare authority that:

- (a) supports a child's application for permanent residency in Australia; and
- (b) sets out:
 - (i) the circumstances leading to the involvement of a State or Territory government welfare authority in the welfare of the child; and
 - (ii) the State or Territory government welfare authority's reasons for supporting the child's application for permanent residency in Australia; and
- (c) describes the nature of the State or Territory government welfare authority's continued involvement in the welfare of the child; and
- (d) shows the letterhead of the State or Territory government welfare authority; and
- (e) is signed by a manager or director employed by the State or Territory government welfare authority.

1111. Confirmatory (Residence) (Class AK)

- (1) Form: 852.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of each applicant who, on last arriving in Australia, was granted a Subclass 773 (Border) visa: \$195
 - (ii) In any other case: Nil
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of a holder of a Subclass 302 (Emergency (Permanent Visa Applicant)) visa: the second instalment of the visa application charge that

applied to the principal visa, less any payment already made towards that instalment.

- (ii) In any other case: Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Confirmatory (Residence) (Class AK) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
 - 808 (Confirmatory)

1111A. Designated Parent (Migrant) (Class BY)

- (1) Form: Nil.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): Nil.
 - (b) Second instalment (payable before grant of visa):
 - (i) if the applicant has turned 18 at the time of application: \$5,000
 - (ii) if the applicant has not turned 18 at the time of application: \$960.
- (3) Other:
 - (a) Application must be made outside Australia in the period from 1 November 1999 to the end of 28 April 2000.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Designated Parent (Migrant) (Class BY) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

118 (Designated Parent)

Note See regulation 2.07AE for how an application for a Designated Parent (Migrant) (Class BY) visa must be made.

1111B. Designated Parent (Residence) (Class BZ)

(1) Form: Nil.

(2) Visa application charge:

(a) First instalment (payable at the time application is made): Nil.

(b) Second instalment (payable before grant of visa):

(i) if the applicant has turned 18 at the time of application: \$5,000

(ii) if the applicant has not turned 18 at the time of application: \$960.

(3) Other:

(a) Application must be made in Australia, but not in immigration clearance, in the period from 1 November 1999 to the end of 28 April 2000.

(b) Applicant must be in Australia but not in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Designated Parent (Residence) (Class BZ) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

859 (Designated Parent)

Note See regulation 2.07AE for how an application for a Designated Parent (Residence) (Class BZ) visa must be made.

1112. Distinguished Talent (Migrant) (Class AL)

(1) Form: 47SV.

- (2) Visa application charge:
- (a) First instalment (payable at the time application is made): \$1 705
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$3 510
 - (ii) In any other case: Nil.
- (3) Other:
- (a) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Distinguished Talent (Migrant) (Class AL) visa may be made at the same time and place as, and combined with, the application by that person.
 - (c) If the applicant seeks to meet the requirements of subclause 124.211 (2), application must be accompanied by a completed approved form 1000.
 - (d) If the applicant seeks to meet the requirements of subclause 124.211 (4), the Minister must have received advice from:
 - (i) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or
 - (ii) the Director-General of Security;that the applicant has provided specialised assistance to the Australian Government in matters of security.
- (4) Subclasses:
124 (Distinguished Talent)

1113. Distinguished Talent (Residence) (Class BX)

- (1) Form: 47SV.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$2 525.
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$3 510
 - (ii) In any other case: Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (aa) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph.

Note Regulation 2.12BC sets out special arrangements for the making of applications by persons designated under regulation 2.07AO. The arrangements in paragraph 1113 (3) (aa) do not apply to those persons.

- (b) Applicant must be in Australia but not in immigration clearance.
- (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Distinguished Talent (Residence) (Class BX) visa may be made at the same time and place as, and combined with, the application by that person.
- (d) If the applicant seeks to meet the requirements of subclause 858.212 (2), application must be accompanied by a completed approved form 1000.
- (e) If the applicant seeks to meet the requirements of subclause 858.212 (4), the Minister must have received advice from:

- (i) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or
 - (ii) the Director-General of Security;
- that the applicant has provided specialised assistance to the Australian Government in matters of security.

- (4) Subclasses:
858 (Distinguished Talent)

1114. Employer Nomination (Migrant) (Class AN)

- (1) Form: 47ES (unless the applicant is taken, under regulation 2.08C, to have applied for an Employer Nomination (Migrant) (Class AN) visa, in which case no form is required).
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who is taken, under regulation 2.08C, to have applied for an Employer Nomination (Migrant) (Class AN) visa: Nil
 - (ii) In the case of an applicant:
 - (A) who has made a valid application for a Skilled (Migrant) (Class VE) visa; and
 - (B) in relation to whom a decision to grant or refuse to grant a Subclass 175 (Skilled — Independent) or a Subclass 176 (Skilled — Sponsored) visa has not been made: Nil
 - (iii) In any other case: \$1 705.
 - (b) Second instalment (payable before grant of visa):
 - (i) Subject to subparagraph (iii), in the case of each applicant who:
 - (A) was 18 years or more at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the primary criteria for the grant of a visa of a subclass included in Employer Nomination (Migrant) (Class AN): \$7 040

- (ii) Subject to subparagraph (iii), in the case of each applicant (including a person taken by paragraph 2.08C (5) (b) to be included in an application) who:
 - (A) was 18 years or more at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the secondary criteria for the grant of a visa of a subclass included in Employer Nomination (Migrant) (Class AN): \$3 510
 - (iii) In the case of:
 - (A) an applicant who is a religious worker within the meaning of paragraph 5 (4) (a) of the *Immigration (Education) Charge Regulations 1993*; or
 - (B) a member of the family unit of an applicant referred to in sub-subparagraph (A): Nil
 - (iv) In the case of a Skill Matching (Migrant) (Class BR) visa applicant who is taken, under subregulation 2.08C (4), to have applied for an Employer Nomination (Migrant) (Class AN) visa: \$1 660.
 - (v) In any other case: Nil.
- (3) Other:
- (a) Application must be made in Australia, but not in immigration clearance.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Employer Nomination (Migrant) (Class AN) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 119 (Regional Sponsored Migration Scheme)
 - 121 (Employer Nomination Scheme)

1114A. Employer Nomination (Residence) (Class BW)

- (1) Form: 47ES.

- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who is taken, under regulation 2.08CA or 2.08CB, to have applied for an Employer Nomination (Residence) (Class BW) visa: Nil
 - (ii) In the case of an applicant who is the holder of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa: \$230
 - (iii) In the case of an applicant:
 - (A) who has made a valid application for a Skilled (Residence) (Class VB) visa; and
 - (B) in relation to whom a decision to grant or refuse to grant a Subclass 885 (Skilled — Independent) visa or a Subclass 886 (Skilled — Sponsored) visa has not been made: Nil
 - (iv) In the case of an applicant:
 - (A) who has made a valid application for a Skilled (Migrant) (Class VE) visa while being the holder of a Subclass 444 (Special Category) visa; and
 - (B) in relation to whom a decision to grant or refuse to grant a Subclass 175 (Skilled — Independent) visa or a Subclass 176 (Skilled — Sponsored) visa has not been made: Nil
 - (v) In any other case: \$2 525.
 - (b) Second instalment (payable before grant of visa):
 - (i) Subject to subparagraphs (iii) and (iv), in the case of each applicant who:
 - (A) was 18 years or more at time of application; and

- (AA) is not the holder of:
 - (I) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (II) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (III) a Subclass 487 (Skilled — Regional Sponsored) visa; and
- (B) is assessed as not having functional English; and
- (C) satisfies the primary criteria for the grant of a visa of a subclass included in Employer Nomination (Residence) (Class BW): \$7 040
- (ii) Subject to subparagraph (iii), in the case of each applicant (including a person taken by paragraph 2.08C (2) (b) to be included in an application) who:
 - (A) was 18 years or more at time of application; and
 - (AA) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the secondary criteria for the grant of a visa of a subclass included in Employer Nomination (Residence) (Class BW): \$3 510
- (iii) In the case of:
 - (A) an applicant who is a religious worker within the meaning of paragraph 5 (4) (a) of the *Immigration (Education) Charge Regulations 1993*; or
 - (B) a member of the family unit of an applicant mentioned in sub-subparagraph (A): Nil
- (iv) In the case of an applicant:
 - (A) to whom subparagraphs (i), (ii) and (iii) do not apply; and
 - (B) who had turned 18 at the time of application; and

-
- (C) who is assessed as not having functional English; and
 - (D) who has not previously paid a second instalment for an application for any of the following visas:
 - (I) Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (II) Subclass 475 (Skilled — Regional Sponsored) visa;
 - (III) Subclass 487 (Skilled — Regional Sponsored) visa: \$3 510
 - (v) In any other case: Nil.
- (3) Other:
- (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (ba) In the case of an applicant who:
 - (i) is the holder of 1 of the following visas:
 - (A) Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (B) Subclass 475 (Skilled — Regional Sponsored) visa;
 - (C) Subclass 487 (Skilled — Regional Sponsored) visa; and
 - (ii) seeks to satisfy the primary criteria for the grant of a Subclass 856 (Employer Nomination Scheme) visa; the applicant has held 1 or more of the following visas for a total of at least 2 years:
 - (iii) Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (iv) Subclass 475 (Skilled — Regional Sponsored) visa;
 - (v) Subclass 487 (Skilled — Regional Sponsored) visa.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Employer Nomination (Residence) (Class BW) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

856 (Employer Nomination Scheme)

857 (Regional Sponsored Migration Scheme)

1118A. Special Eligibility (Class CB)

(1) Form: 47SV.

(2) Visa application charge:

(a) First instalment (payable at the time application is made):

(i) In the case of an applicant who is in Australia:
\$2 525

(ii) In the case of an applicant who is outside Australia: \$1 705

(b) Second instalment (payable before grant of visa):

(i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$3 510

(ii) In any other case: Nil.

(3) Other:

(a) Application must be made by:

(i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or

(ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Special Eligibility (Class CB) visa may be made at the same time and place as, and combined with, the application by that person.

- (4) Subclasses:
151 (Former Resident)

1120. Independent (Migrant) (Class AT)

- (1) Form: 47.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made): \$1,060
- (b) Second instalment (payable before grant of visa):
- (i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$2,275
- (ii) In any other case: Nil.
- (3) Other:
- (a) Application must be made outside Australia.
- (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Independent (Migrant) (Class AT) visa may be made at the same time and place as, and combined with, the application by that person.
- (c) Application must be made before 1 July 1999.
- (4) Subclasses:
- 126 (Independent)
- 135 (State/Territory-Nominated Independent)

1121. Labour Agreement (Migrant) (Class AU)

- (1) Form: 47ES (unless the applicant is taken, under regulation 2.08C, to have applied for a Labour Agreement (Migrant) (Class AU) visa, in which case no form is required).
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
- (i) In the case of an applicant who is taken, under regulation 2.08C, to have applied for a Labour Agreement (Migrant) (Class AU) visa: Nil

- (ii) In the case of an applicant:
 - (A) who has made a valid application for a Skilled (Migrant) (Class VE) visa; and
 - (B) in relation to whom a decision to grant or refuse to grant a Subclass 175 (Skilled—Independent) visa or a Subclass 176 (Skilled—Sponsored) visa has not been made: Nil
- (iii) In any other case: \$1 705.
- (b) Second instalment (payable before grant of visa):
 - (i) Subject to subparagraph (iii), in the case of each applicant who:
 - (A) was 18 years or more at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the primary criteria for the grant of a visa of a subclass included in Labour Agreement (Migrant) (Class AU): \$7 040
 - (ii) Subject to subparagraph (iv), in the case of each applicant (including a person taken by paragraph 2.08C (8) (b) to be included in an application) who:
 - (A) was 18 years or more at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the secondary criteria for the grant of a visa of a subclass included in Labour Agreement (Migrant) (Class AU): \$3 510
 - (iii) In the case of an applicant who is a person (a **religious worker**):
 - (A) who seeks to enter Australia to work in accordance with a labour agreement entered into by a religious institution; and
 - (B) who satisfies the primary criteria for the grant of a visa of a subclass included in Labour Agreement (Migrant) (Class AU): Nil

- (iv) In the case of an applicant who:
 - (A) is a member of the family unit of a religious worker; and
 - (B) satisfies the secondary criteria for the grant of a visa of a subclass included in Labour Agreement (Migrant) (Class AU): Nil
 - (v) In the case of a Skill Matching (Migrant) (Class BR) visa applicant who is taken, under subregulation 2.08C (7), to have applied for a Labour Agreement (Migrant) (Class AU) visa: \$1 660
 - (vi) In any other case: Nil.
- (3) Other:
- (a) Application must be made in Australia, but not in immigration clearance.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Labour Agreement (Migrant) (Class AU) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 120 (Labour Agreement)

1121A. Labour Agreement (Residence) (Class BV)

- (1) Form: 47ES.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who is taken, under regulation 2.08CC, to have applied for a Labour Agreement (Residence) (Class BV) visa: Nil
 - (ii) In the case of an applicant:
 - (A) who has made a valid application for a Skilled (Residence) (Class VB) visa; and

- (B) in relation to whom a decision to grant or refuse to grant a Subclass 885 (Skilled — Independent) visa or a Subclass 886 (Skilled — Sponsored) visa has not been made: Nil
 - (iii) In the case of an applicant:
 - (A) who has made a valid application for a Skilled (Migrant) (Class VE) visa while being the holder of a Subclass 444 (Special Category) visa; and
 - (B) in relation to whom a decision to grant or refuse to grant a Subclass 175 (Skilled — Independent) visa or a Subclass 176 (Skilled — Sponsored) visa has not been made: Nil
 - (iv) In any other case: \$2 525.
- (b) Second instalment (payable before grant of visa):
- (i) Subject to subparagraphs (iii) and (iv), in the case of each applicant who:
 - (A) was 18 years or more at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the primary criteria for the grant of a visa of a subclass included in Labour Agreement (Residence) (Class BV): \$7 040
 - (ii) Subject to subparagraphs (iii) and (iv), in the case of each applicant who:
 - (A) was 18 years or more at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the secondary criteria for the grant of a visa of a subclass included in Labour Agreement (Residence) (Class BV): \$3 510
 - (iii) In the case of an applicant who is a person (a **religious worker**):

- (A) who seeks to work, or is working, in accordance with a labour agreement entered into by a religious institution; and
 - (B) who satisfies the primary criteria for the grant of a visa of a subclass included in Labour Agreement (Residence) (Class BV): Nil
- (iv) In the case of an applicant who:
- (A) is a member of the family unit of a religious worker; and
 - (B) satisfies the secondary criteria for the grant of a visa of a subclass included in Labour Agreement (Residence) (Class BV): Nil
- (v) In any other case: Nil.
- (3) Other:
- (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Labour Agreement (Residence) (Class BV) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 855 (Labour Agreement)

1123. Norfolk Island Permanent Resident (Residence) (Class AW)

- (1) Form: 15.
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made in immigration clearance.
 - (b) Applicant must be in immigration clearance.

(c) The applicant must show a clearance officer a passport that is in force and that is endorsed with an authority to reside indefinitely on Norfolk Island.

(4) Subclasses:

834 (Permanent Resident of Norfolk Island)

1123A. Other Family (Migrant) (Class BO)

(1) Form: 47OF.

(2) Visa application charge:

(a) First instalment (payable at the time application is made):

(i) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be a carer: \$1 040

(ii) In any other case: \$1 705

(b) Second instalment (payable before grant of visa):

(i) In the case of an applicant:

(A) who is a carer; and

(B) in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer: Nil

(ii) In any other case: \$1 480.

(3) Other:

(a) Application must be made outside Australia.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Other Family (Migrant) (Class BO) visa may be made at the same time and place as, and combined with, the application by that person.

(c) Application by a person claiming to be a carer must be accompanied by satisfactory evidence that the relevant medical assessment has been sought.

- (4) Subclasses:
- 114 (Aged Dependent Relative)
 - 115 (Remaining Relative)
 - 116 (Carer)

1123B. Other Family (Residence) (Class BU)

- (1) Form: 47OF.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be a carer: \$1 040
 - (ii) In any other case: \$2 525.
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of an applicant:
 - (A) who is a carer; and
 - (B) in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer: Nil
 - (ii) In any other case: \$1 480.
- (3) Other:
- (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Other Family (Residence) (Class BU) visa may be made at the same time and place as, and combined with, the application by that person.

(d) Application by a person claiming to be a carer must be accompanied by satisfactory evidence that the relevant medical assessment has been sought.

(4) Subclasses:

835 (Remaining Relative)

836 (Carer)

838 (Aged Dependent Relative)

1124. Parent (Migrant) (Class AX)

(1) Form: 47PA.

(2) Visa application charge:

(a) First instalment (payable at the time application is made): \$1 705

(b) Second instalment (payable before grant of visa): \$1 480

(3) Other:

(a) Application must be made in Australia but not in immigration clearance.

(aa) Application must be made by:

(i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or

(ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph.

(ab) If the applicant has previously made a valid application for another parent visa:

(i) a decision to grant or to refuse to grant that visa has been made; or

(ii) the application for that visa has been withdrawn.

(b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Parent (Migrant) (Class AX) visa may be made at the same time and place as, and combined with, the application by that person.

- (4) Subclasses:
103 (Parent)

1124A. Aged Parent (Residence) (Class BP)

- (1) Form: 47PA.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made): \$2 525
 - (b) Second instalment (payable before grant of visa): \$1 480.
- (3) Other:
- (a) Application must be made in Australia, but not in immigration clearance.
 - (b) The applicant must be in Australia, but not in immigration clearance.
 - (ba) If the applicant has previously made a valid application for another parent visa:
 - (i) a decision to grant or to refuse to grant that visa has been made; or
 - (ii) the application for that visa has been withdrawn.
 - (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Aged Parent (Residence) (Class BP) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
804 (Aged Parent)

1124B. Partner (Residence) (Class BS)

- (1) Form:
- (a) If the applicant is the holder of a Subclass 445 (Dependent Child) visa: 1002
 - (b) In any other case: 47SP or 47SP (Internet).

(2) Visa application charge:

- (a) First instalment (payable at the time application is made):
- (i) In the case of an applicant who is the holder of a Subclass 445 (Dependent Child) visa: Nil
 - (ii) In the case of an applicant who is the holder of a transitional (temporary) visa, granted on the basis that the holder satisfied the criteria for grant of an extended eligibility entry permit under the Migration (1989) Regulations: \$295
 - (iii) In the case of an applicant who:
 - (A) is not the holder of a substantive visa; and
 - (B) entered Australia before 19 December 1989; and
 - (C) at the time of entry, was engaged to be married to a person who was an Australian citizen or Australian permanent resident; and
 - (D) has subsequently married that person: \$1 040
 - (iv) In the case of an applicant who:
 - (A) is not the holder of a substantive visa; and
 - (B) entered Australia on or after 19 December 1989 as the holder of a prospective marriage (code number 300) entry permit granted under the Migration (1989) Regulations, or a Class 300 (prospective marriage) entry permit granted under the Migration (1993) Regulations; and
 - (C) ceased to hold a substantive visa after marrying the Australian citizen or Australian permanent resident whom the applicant entered Australia to marry: \$1 040
 - (v) In the case of an applicant who:
 - (A) is the holder of a Prospective Marriage (Temporary) (Class TO) visa; and
 - (B) is married to the person who was specified as the applicant's intended spouse in the application for that visa; and

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- (C) seeks to remain in Australia permanently on the basis of that marriage: \$825
- (vi) In the case of an applicant who:
- (A) is not the holder of a substantive visa; and
 - (B) entered Australia as the holder of a Prospective Marriage (Temporary) (Class TO) visa; and
 - (C) ceased to hold that visa after marrying the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and
 - (D) seeks to remain in Australia permanently on the basis of that marriage: \$1 040
- (vii) In any other case: \$2 525
- (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) Application must be made in Australia, but not in immigration clearance.
 - (b) The applicant must be in Australia, but not in immigration clearance.
 - (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Partner (Residence) (Class BS) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 801 (Partner)

1127AA Resolution of Status (Class CD)

Note Subregulation 2.07AQ (3) sets out other circumstances in which a person is taken to have made a valid application for a Resolution of Status (Class CD) visa.

- (1) Form: 1364.
- (2) Visa application charge: Nil.

(3) Other:

- (a) Application must be made in Australia.
- (b) Applicant must be in Australia but not in immigration clearance.
- (c) The criteria in at least 1 of the items in the table are satisfied.

Item	Criterion 1	Criterion 2	Criterion 3
1	<p>Applicant holds:</p> <ul style="list-style-type: none"> (a) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or (b) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or (c) a Subclass 695 (Return Pending) visa; or (d) a Subclass 785 (Temporary Protection) visa 	Nil	Nil
2	<p>Applicant held, but no longer holds, a visa of a kind mentioned in criterion 1 of item 1, and the visa was not cancelled</p>	<p>Applicant:</p> <ul style="list-style-type: none"> (a) has not left Australia; or (b) while holding a visa that permits re-entry to Australia, has left and re-entered Australia 	<p>Applicant does not hold a permanent visa</p>
3	<p>Applicant is a member of the same family unit as a person who:</p> <ul style="list-style-type: none"> (a) has made a valid application for a Resolution of Status (Class CD) visa as a result of satisfying the criteria in item 1 or 2; or (b) is taken to have made a valid application for a Resolution of Status (Class CD) visa as a result of satisfying the criteria in item 1 or 2 of the table in subregulation 2.07AQ (3). 	<p>Applicant:</p> <ul style="list-style-type: none"> (a) was in Australia on 9 August 2008 and was a member of the same family unit on that date; or (b) was born on or after 9 August 2008 	Nil

- (4) Subclasses:
 - 851 (Resolution of Status)
- (5) For this item, a person (*person A*) is a member of the same family unit as another person (*person B*) if:
 - (a) person A is a member of person B's family unit; or
 - (b) person B is a member of person A's family unit; or
 - (c) person A and person B are members of the family unit of a third person.

1128. Return (Residence) (Class BB)

- (1) Form:
 - (a) If the application is an Internet application: 1085E
 - (b) In any other case: 1085 (unless the application is in accordance with subparagraph (3) (a) (iii), in which case no form is required).
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) Application made in Australia: \$260
 - (ii) Application made outside Australia: \$260
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) For an application (not being an Internet application):
 - (i) the application may be made in or outside Australia, but not in immigration clearance; and
 - (ii) the applicant must be in Australia to make an application in Australia; and
 - (iii) an application made in Australia may be:
 - (A) an oral application; or
 - (B) an application in writing, otherwise than in accordance with form 1085;if accompanied by presentation of a valid passport.

- (b) For an Internet application the applicant must be in Australia, but not in immigration clearance.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (c) Application by a person who is included in the passport of another applicant for a Return (Residence) (Class BB) visa may be made at the same time and place as, and combined with, the application by that other applicant.
- (d) Application by a person is not a valid application if:
- (i) the most recent permanent visa held by the person is, or was, the subject of a notice, under subsection 135 (1) of the Act, proposing cancellation; and
 - (ii) the person has not been notified of a decision not to proceed with the cancellation; and
 - (iii) the visa was not the subject of a decision to cancel the visa under section 134 of the Act.
- (e) Application by a person is not a valid application if:
- (i) the most recent permanent visa held by the person was the subject of a decision to cancel the visa under section 134 of the Act (whether or not the decision has come into effect); and
 - (ii) the decision to cancel the visa has not been set aside by the AAT.

(4) Subclasses:

- 155 (Five Year Resident Return)
- 157 (Three Month Resident Return)

1128AA.Skill Matching (Migrant) (Class BR)

- (1) Form: 47SK.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made): Nil.
 - (b) Second instalment (payable before grant of visa):
 - (i) \$2 465; and

- (ii) For each applicant whose age was 18 years or more at the time of application and is assessed as not having functional English: \$3 510.

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (aa) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
 - (ab) Applicant seeking to satisfy the primary criteria must be less than 45.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skill Matching (Migrant) (Class BR) visa may be made at the same time and place as, and combined with, the application by that person.
 - (c) Application by a person who is seeking to satisfy the primary criteria must be accompanied by evidence that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
 - (d) Application must be accompanied by satisfactory evidence that the applicant has provided the personal and occupational information required for inclusion in Immigration's skill matching database.
 - (e) If the applicant:
 - (i) is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; and

- (ii) seeks to satisfy the primary criteria for the grant of a Subclass 134 (Skill Matching) visa;
the applicant has held 1 or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.
 - (f) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.
- (4) Subclasses:
134 (Skill Matching)

1128A. Skilled — Australian Linked (Migrant) (Class AJ)

- (1) Form: 47.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$1 090
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant whose age was 18 years or more at the time of application and who is assessed as not having functional English: \$2 340
 - (ii) In any other case: Nil
- (3) Other:
 - (a) Application must be made outside Australia.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Australian Linked (Migrant) (Class AJ) visa may be made at the same time and place as, and combined with, the application by that person.
 - (c) Application must be made before 1 July 1999.
- (4) Subclasses:
 - 105 (Skilled — Australian Linked)
 - 106 (Regional Linked)

1128B. Skilled — Australian-sponsored (Migrant) (Class BQ)

- (1) Form: 47SK.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who is taken under regulation 2.08D to have applied for a Skilled – Australian-sponsored (Migrant) (Class BQ) visa: Nil.
 - (ii) In any other case: \$2 525.
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant whose age was 18 years or more at the time of application and who is assessed as not having functional English: \$3 510.
 - (ii) In any other case: Nil.

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (aa) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
 - (ab) Applicant seeking to satisfy the primary criteria must be less than 45.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled – Australian-sponsored (Migrant) (Class BQ) visa may be made at the same time and place as, and combined with, the application by that person.

- (c) Application by a person who is seeking to satisfy the primary criteria must be accompanied by evidence that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
 - (d) Application must be accompanied by a sponsorship form completed by a person who is the sponsor of the applicant.
 - (da) Application by a person seeking to satisfy the primary criteria for the grant of a Subclass 138 (Skilled – Australian-sponsored) visa must be made before 1 September 2007.
 - (e) Application by a person seeking to satisfy the criteria for a Subclass 139 (Skilled — Designated Area-sponsored) visa must be made before 1 July 2006.
- (4) Subclasses:
- 138 (Skilled – Australian-sponsored)
 - 139 (Skilled – Designated Area-sponsored)

1128BA. Skilled — Australian-sponsored Overseas Student (Residence) (Class DE)

- (1) Forms: 47SK and 47SK (Internet).
 - (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$2 525
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$3 510
 - (ii) In any other case: Nil.
- Note* Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.
- (3) Other:
 - (b) Applicant must be in Australia but not in immigration clearance.

- (c) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) all persons included in the application have undergone a medical examination for the purpose of the application carried out by any of the following:
 - (A) a Medical Officer of the Commonwealth;
 - (B) a medical practitioner approved by the Minister for this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and
 - (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- (d) Applicant must be:
 - (i) the holder of a Bridging A (Class WA) visa granted because the applicant met the requirements of subclause 010.211 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (e); or
 - (ii) the holder of a Bridging B (Class WB) visa granted because the applicant met the requirements of subclause 020.212 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (e); or
 - (iii) a person to whom paragraph (e) applies.
- (da) Applicant is taken to have complied with paragraph (d) if:
 - (i) the applicant is not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation; and
 - (iii) that last substantive visa was a visa other than a visa of a kind mentioned in paragraph (e); and

- (iv) the applicant has lodged the application within 28 days after the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision.
- (db) If the last substantive visa, held by an applicant who is taken, under paragraph (da), to have complied with paragraph (d), was not a Subclass 560, 562, 563, 572, 573 or 574 visa, the applicant must have been, at some time in the 6 months immediately before that visa was cancelled, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa that was not of a kind mentioned in paragraph (e).
- (e) This paragraph applies to an applicant who is the holder of a substantive visa other than:
 - (i) a Subclass 560 (Student) visa granted to:
 - (A) the applicant as a person who satisfied the primary criteria for that visa (the **primary person**) in relation to undertaking:
 - (I) a registered English language course or an ELICOS; or
 - (II) a course of study paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency; or
 - (III) a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; or
 - (IV) a non-award course; or
 - (B) the applicant as a member of the family unit of the primary person; or
 - (ii) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependant), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Postgraduate Research Sector) visa granted to:
 - (A) the applicant as a person who satisfied the primary criteria for the visa (the **primary**

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- person*) in relation to undertaking a course mentioned in sub-sub-subparagraph (i) (A) (II) or (III); or
- (B) the applicant as a member of the family unit of the primary person; or
- (iii) a Subclass 570 (Independent ELICOS Sector) visa; or
- (iv) a Subclass 571 (Schools Sector) visa; or
- (v) a Subclass 575 (Non-Award Sector) visa; or
- (vi) a Subclass 576 (AusAID or Defence Sector) visa.
- (f) If the applicant is the holder of:
- (i) a Bridging A (Class WA) visa or Bridging B (Class WB) visa; or
- (ii) a substantive visa that is not a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (e) —
the applicant must have been, at some time in the 6 months immediately before making the application, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (e).
- (g) Applicant must not have been an unlawful non-citizen at any time in the 6 months immediately before making the application.
- (h) Application must be made:
- (i) by posting the application (with the correct pre-paid postage) to the post office box address specified in an instrument in writing for this subparagraph; or
- (ii) by having the application delivered by a courier service to the address specified in an instrument in writing for this subparagraph; or
- (iii) as an Internet application.
- Note* An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.
- (ha) Applicant seeking to satisfy the primary criteria must be less than 45.

- (i) Applicant seeking to satisfy the primary criteria must make a declaration that the applicant is a person to whom paragraphs (j) and (ja) apply.
- (j) This paragraph applies to a person who:
 - (ii) if he or she is seeking to satisfy the criteria for the grant of a Subclass 881 (Skilled — Australian-sponsored Overseas Student) visa — nominates in his or her application a skilled occupation for which at least 50 points are specified by an instrument in writing for this subparagraph as available; and
 - (iii) if he or she is seeking to satisfy the criteria for the grant of a Subclass 882 (Skilled — Designated Area-sponsored Overseas Student) visa — nominates a skilled occupation in his or her application; and
 - (iv) has applied for an assessment of his or her skills for the nominated skilled occupation by a relevant assessing authority.
- (ja) This paragraph applies to an applicant to whom paragraph (j) applies if:
 - (i) each of the following sub-subparagraphs applies in relation to the applicant:
 - (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (B) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (ii) each of the following sub-subparagraphs applies in relation to the applicant:

- (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (B) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (C) the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (D) each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was completed at the institution at which it was commenced;
 - (E) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was conducted in English.
- (k) Application:
- (i) made using form 47SK must be accompanied by a sponsorship form 40 completed by a person who is the sponsor of the applicant; or

- (ii) made using form 47SK (Internet) must be accompanied by a sponsorship form 40 (Internet) completed by a person who is the sponsor of the applicant.
- (l) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant's sponsor:
 - (i) has turned 18; and
 - (ii) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (iii) is a person in respect of whom the applicant seeking to satisfy the primary criteria, or the spouse or de facto partner of the applicant seeking to satisfy the primary criteria, if the applicant's spouse or de facto partner is an applicant for a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa, has one of the following relationships:
 - (A) a parent;
 - (B) a child or step-child who is not a dependent child of the sponsor;
 - (C) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
 - (CA) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
 - (D) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
 - (E) if the applicant is seeking to satisfy the primary criteria for the grant of a Subclass 882 (Skilled — Designated Area-sponsored Overseas Student) visa — a grandchild or first cousin.
- (m) Application made by an applicant seeking to satisfy the criteria for the grant of a Subclass 882 (Skilled — Designated Area-sponsored Overseas Student) visa must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria, that the applicant's sponsor:

- (i) is resident in an area specified in a an instrument in writing for this subparagraph as a designated area for item 6701 of Schedule 6; and
 - (ii) was resident in at least 1 designated area throughout the period of 12 months immediately before the day when the application is made (except for short absences for the purposes of recreation or business).
- (p) If the applicant is, or was at any time, the holder of an AusAID student visa within the meaning of regulation 1.04A or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574, 575 or 576 visa granted to the applicant for a course of study or training for which the applicant is or was provided financial support by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency, application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
- (i) the course of study or training (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months; or
 - (ii) the applicant:
 - (A) has ceased, completed, withdrawn from, or been excluded from:
 - (I) the course of study or training to which the visa relates or related; or
 - (II) another course approved by the AusAID Minister, or the government or multilateral agency that provided financial support to the applicant, as the case requires, in substitution for that course; and
 - (B) has spent at least 2 years outside Australia since ceasing or completing, or withdrawing or being excluded from, the course.
- (pa) Application by an applicant who is, or was at any time, a member of the family unit of a person:
- (i) who was the holder of a visa of a kind mentioned in paragraph (p); and

- (ii) to whom subparagraph (p) (ii) applies;
must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant has spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.
- (q) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa may be made at the same time and place as, and combined with, the application by that person.
- (r) Applicant must:
- (i) satisfy paragraphs (a) to (pa); or
 - (ii) in the case of an applicant who:
 - (A) is a member of the family unit of an applicant who satisfies paragraphs (a) to (pa); and
 - (B) makes a combined application with that applicant;satisfy paragraphs (a) to (h) and (k) to (pa).
- (s) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.
- (4) Subclasses:
- 881 (Skilled — Australian-sponsored Overseas Student)
 - 882 (Skilled — Designated Area-sponsored Overseas Student)
- (5) In this item:
- completed**, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.
- Note* The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.
- course of study** has the meaning given by subregulation 2.26A (7A).

degree and *diploma* have the meanings given in subregulation 2.26A (6).

trade qualification has the meaning given in subregulation 2.26A (6).

Note For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

1128C. Skilled — Independent (Migrant) (Class BN)

- (1) Form: 47SK.
 - (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who is taken under regulation 2.08D to have applied for a Skilled — Independent (Migrant) (Class BN) visa: Nil.
 - (ii) In the case of an applicant who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa: \$230.
 - (iii) In any other case: \$2 525.
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant whose age was 18 years or more at the time of application, who is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa and who is assessed as not having functional English: \$3 510.
 - (ii) In any other case: Nil.
- Note* Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (aa) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or

- (ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
- (ab) Except in the case of an applicant who:
- (i) is the holder of a Subclass 495 (Skilled — Independent Regional (Provisional)) visa; and
 - (ii) is seeking to satisfy the primary criteria for a Subclass 137 (Skilled — State/Territory-nominated Independent) visa;
- applicant seeking to satisfy the primary criteria must be less than 45.
- (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Independent (Migrant) (Class BN) visa may be made at the same time and place as, and combined with, the application by that person.
- (c) Unless the applicant:
- (i) is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa granted on the basis of satisfying the primary criteria; or
 - (ii) is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa granted on the basis that he or she was the spouse or de facto partner of the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa granted on the basis of satisfying the primary criteria;
- application must be accompanied by evidence that a relevant assessing authority has assessed the skills of the applicant seeking to satisfy the primary criteria for the grant of a Subclass 136 (Skilled — Independent) or Subclass 137 (Skilled — State/Territory-nominated Independent) visa as suitable for his or her nominated skilled occupation.
- (d) If the applicant:
- (i) is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; and

- (ii) seeks to satisfy the primary criteria for the grant of a Subclass 136 (Skilled — Independent) or a Subclass 137 (Skilled — State/Territory-nominated Independent) visa;
the applicant has held 1 or more Skilled — Independent Regional (Provisional) (Class UX) visas for a total of at least 2 years.
 - (e) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.
- (4) Subclasses:
- 136 (Skilled – Independent)
 - 137 (Skilled – State/Territory-nominated Independent)

**1128CA. Skilled — Independent Overseas Student (Residence)
(Class DD)**

- (1) Forms: 47SK and 47SK (Internet).
 - (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$2 525
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$3 510
 - (ii) In any other case: Nil.
- Note* Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.
- (3) Other:
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Application must be made:
 - (i) by posting the application (with the correct pre-paid postage) to the post office box address specified in an instrument in writing for this subparagraph; or

- (ii) by having the application delivered by a courier service to the address specified in an instrument in writing for this subparagraph; or
- (iii) as an Internet application.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (d) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) all persons included in the application have undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (A) a Medical Officer of the Commonwealth;
 - (B) a medical practitioner approved by the Minister for this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and
 - (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- (e) Applicant must be:
 - (i) the holder of a Bridging A (Class WA) visa granted because the applicant met the requirements of subclause 010.211 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (f); or
 - (ii) the holder of a Bridging B (Class WB) visa granted because the applicant met the requirements of subclause 020.212 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (f); or
 - (iii) a person to whom paragraph (f) applies.

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- (ea) Applicant is taken to have complied with paragraph (e) if:
- (i) the applicant is not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation; and
 - (iii) that last substantive visa was a visa other than a visa of a kind mentioned in paragraph (f); and
 - (iv) the applicant has lodged the application within 28 days after the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision.
- (eb) If the last substantive visa, held by an applicant who is taken, under paragraph (ea), to have complied with paragraph (e), was not a Subclass 560, 562, 563, 572, 573 or 574 visa, the applicant must have been, at some time in the 6 months immediately before that visa was cancelled, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa that was not of a kind mentioned in paragraph (f).
- (f) This paragraph applies to an applicant who is the holder of a substantive visa other than:
- (i) a Subclass 560 (Student) visa granted to:
 - (A) the applicant as a person who satisfied the primary criteria for that visa (the *primary person*) in relation to undertaking:
 - (I) a registered English language course or an ELICOS; or
 - (II) a course of study paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency; or
 - (III) a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; or

- (IV) a non-award course; or
- (B) the applicant as a member of the family unit of the primary person; or
- (ii) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependant), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Postgraduate Research Sector) visa granted to:
 - (A) the applicant as a person who satisfied the primary criteria for the visa (the *primary person*) in relation to undertaking a course mentioned in sub-sub-subparagraph (i) (A) (II) or (III); or
 - (B) the applicant as a member of the family unit of the primary person; or
- (iii) a Subclass 570 (Independent ELICOS Sector) visa; or
- (iv) a Subclass 571 (Schools Sector) visa; or
- (v) a Subclass 575 (Non-Award Sector) visa; or
- (vi) a Subclass 576 (AusAID or Defence Sector) visa.
- (g) If the applicant is the holder of:
 - (i) a Bridging A (Class WA) visa or Bridging B (Class WB) visa; or
 - (ii) a substantive visa that is not a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (f) —
the applicant must have been, at some time in the 6 months immediately before making the application, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (f).
- (h) Applicant must not have been an unlawful non-citizen at any time in the 6 months immediately before making the application.
- (i) Applicant seeking to satisfy the primary criteria must be less than 45 years of age.

- (j) Applicant seeking to satisfy the primary criteria must, in his or her application:
 - (i) if the applicant has, in the 6 months immediately before the day on which the application is made, completed a doctoral degree, in which all instruction was conducted in English, for award by an Australian educational institution as the result of at least 2 years of full-time study in Australia at that institution — nominate a skilled occupation for which at least 50 points are specified by an instrument in writing for this subparagraph as available; or
 - (ii) in any other case — nominate a skilled occupation for which 60 points are specified by an instrument in writing for this subparagraph as available.
- (k) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
- (l) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that:
 - (i) each of the following sub-subparagraphs applies in relation to the applicant:
 - (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (C) all instruction for that degree, diploma or trade qualification was conducted in English; or

- (ii) each of the following sub-subparagraphs applies in relation to the applicant:
 - (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (B) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (C) the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (D) each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was completed at the institution at which it was commenced;
 - (E) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was conducted in English.
- (m) If the applicant is, or was at any time, the holder of an AusAID student visa within the meaning of regulation 1.04A or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574, 575 or 576 visa granted to the applicant for a course of study or training for which the applicant is or was

provided financial support by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency, application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:

- (i) the course of study or training (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months; or
 - (ii) the applicant:
 - (A) has ceased, completed, withdrawn from, or been excluded from:
 - (I) the course of study or training to which the visa relates or related; or
 - (II) another course approved by the AusAID Minister, or the government or multilateral agency that provided financial support to the applicant, as the case requires, in substitution for that course; and
 - (B) has spent at least 2 years outside Australia since ceasing or completing, or withdrawing or being excluded from, the course.
- (ma) Application by an applicant who is, or was at any time, a member of the family unit of a person:
- (i) who was the holder of a visa of a kind mentioned in paragraph (m); and
 - (ii) to whom subparagraph (m) (ii) applies;
- must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant has spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.
- (n) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Independent Overseas Student (Residence) (Class DD) visa may be made at the same time and place as, and combined with, the application by that person.

- (o) Applicant must:
 - (i) satisfy paragraphs (a) to (ma); or
 - (ii) in the case of an applicant who:
 - (A) is a member of the family unit of an applicant who satisfies paragraphs (a) to (ma); and
 - (B) makes a combined application with that applicant;satisfy paragraphs (a) to (h), (m) and (ma).
- (p) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.

- (4) Subclasses:
 - 880 (Skilled — Independent Overseas Student)

- (5) In this item:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and ***diploma*** have the meanings given in subregulation 2.26A (6).

trade qualification has the meaning given in subregulation 2.26A (6).

Note For ***relevant assessing authority*** and ***skilled occupation***, see regulation 1.03.

1128D. Skilled — New Zealand Citizen (Residence) (Class DB)

- (1) Form: 47SK.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$2 525

- (b) Second instalment (payable before grant of visa):
- (i) In the case of each applicant who was 18 years or more at time of application and is assessed as not having functional English: \$3 510
 - (ii) In any other case: Nil.

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

- (3) Other:
- (a) Application must be made in Australia, but not in immigration clearance.
 - (aa) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
 - (b) Applicant must be in Australia, but not in immigration clearance.
 - (c) Applicant seeking to satisfy the primary criteria must be the holder of a Subclass 444 (Special Category) visa.
 - (ca) Applicant seeking to satisfy the primary criteria must be less than 45.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — New Zealand Citizen (Residence) (Class DB) visa may be made at the same time and place as, and combined with, the application by that person.
 - (e) Application by a person seeking to satisfy the primary criteria must be accompanied by evidence that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
 - (f) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.

(4) Subclasses:

861 (Skilled — Onshore Independent New Zealand Citizen)

862 (Skilled — Onshore Australian-sponsored New Zealand Citizen)

863 (Skilled — Onshore Designated Area-sponsored New Zealand Citizen)

1129. Partner (Migrant) (Class BC)

(1) Form:

(a) If the applicant is the holder of a Subclass 445 (Dependent Child) visa: 1002.

(b) In any other case: 47SP or 47SP (Internet).

(2) Visa application charge:

(a) First instalment (payable at the time application is made):

(i) In the case of each applicant who is the holder of a Subclass 445 (Dependent Child) visa: Nil

(ii) In any other case: \$1 705

(b) Second instalment (payable before grant of visa): Nil.

(3) Other:

(a) Application otherwise than by the holder of:

(i) a Subclass 445 (Dependent Child) visa; or

(ii) a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa, which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant;

must be made outside Australia.

(b) Application by the holder of:

(i) a Subclass 445 (Dependent Child) visa; or

(ii) a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa, which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant;

may be made in or outside Australia, but not in immigration clearance.

- (c) Applicant other than an applicant who is the holder of:
- (i) a Subclass 445 (Dependent Child) visa; or
 - (ii) a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa, which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant;
- must be outside Australia.
- (d) Applicant who is the holder of:
- (i) a Subclass 445 (Dependent Child) visa; or
 - (ii) a Subclass 309 (Spouse (Provisional)) visa, a Subclass 309 (Partner (Provisional)) visa or a Subclass 310 (Interdependency (Provisional)) visa, which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant;
- may be in or outside Australia, but not in immigration clearance.
- (e) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Partner (Migrant) (Class BC) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 100 (Partner)

1130. Contributory Parent (Migrant) (Class CA)

- (1) Form:
- (a) If the applicant is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa: 47PT
 - (b) In any other case: 47PA.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):

- (i) For an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application: \$230
- (ia) For an applicant who:
 - (A) held a Subclass 173 (Contributory Parent (Temporary)) visa; and
 - (B) is the holder of a substituted Subclass 676 visa at the time of application: \$230
- (ib) For an applicant who has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application: \$230
- (ic) For an applicant who has held a Subclass 173 (Contributory Parent (Temporary)) visa, and who provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 173 (Contributory Parent (Temporary)) visa for the purpose of the application: \$1 705
- (ii) For an applicant who:
 - (A) made a valid application for a Parent (Migrant) (Class AX) visa before the day on which this item commences; and
 - (B) withdrew that application at the same time as making the application for the Contributory Parent (Migrant) (Class CA) visa: Nil
- (iii) In any other case: \$1 705
- (b) Second instalment (payable before grant of visa):
 - (i) For an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application: \$13 730
 - (ia) For an applicant
 - (A) who:
 - (I) held a Subclass 173 (Contributory Parent (Temporary)) visa; and
 - (II) is the holder of a substituted Subclass 676 visa at the time of application; and

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- (III) is not described in sub-subparagraph (B): \$13 730; or
- (B) who:
- (I) held a Subclass 173 (Contributory Parent (Temporary)) visa; and
 - (II) is, at the time of application, the holder of a substituted Subclass 676 visa or the child or step-child of an applicant mentioned in sub-subparagraph (A); and
 - (III) is a person who is the child or step-child of an applicant for a Contributory Parent (Migrant) (Class CA) visa and has not turned 18 at the time of application for a Contributory Parent (Temporary) (Class UT) visa: Nil.
- (ii) For an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, and:
- (A) is the child or step-child of an applicant for a Contributory Parent (Migrant) (Class CA) visa; and
 - (B) had not turned 18 at the time of application for a Contributory Parent (Temporary) (Class UT) visa: Nil
- (ia) For an applicant who has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application: \$13 730
- (ib) For an applicant who has held a Subclass 173 (Contributory Parent (Temporary)) visa, and in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application: \$12 430

- (iii) For an applicant who:
 - (A) is a dependent child of an applicant for a Contributory Parent (Migrant) (Class CA) visa; and
 - (B) has not turned 18 at the time of application: \$1 485
 - (iv) In any other case: \$34 330.
- (3) Other:
- (a) If the applicant is in Australia, and is:
 - (i) the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; or
 - (ii) the holder of a substituted Subclass 676 visa; or
 - (iii) the member of the family unit of an applicant who holds a substituted subclass 676 visa;the application must be made in Australia but not in immigration clearance.
 - (b) If the applicant is not mentioned in paragraph (a), application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph.
 - (c) If the applicant has previously made a valid application for another parent visa:
 - (i) a decision to grant or to refuse to grant that visa has been made; or
 - (ii) the application for that visa has been withdrawn.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Contributory Parent (Migrant) (Class CA) visa may be made at the same time and place as, and combined with, the application by that person.
 - (e) Application by a person:
 - (i) holding a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; and

(ii) claiming to be a member of the family unit of a person who is an applicant for a Contributory Parent (Migrant) (Class CA) visa

may be made at the same time, and combined with, the application by that person.

(4) Subclasses:

143 (Contributory Parent)

(5) In this item, a reference to an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa, means a person who, as the case may be:

(a) currently holds a Subclass 173 (Contributory Parent (Temporary)) visa; or

(b) has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or

(c) has held a Subclass 173 (Contributory Parent (Temporary)) visa, and who provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 173 (Contributory Parent (Temporary)) visa for the purpose of the application.

1130A. Contributory Aged Parent (Residence) (Class DG)

(1) Form:

(a) If the applicant is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa: 47PT

(b) In any other case: 47PA.

(2) Visa application charge:

(a) First instalment (payable at the time application is made):

(i) For an applicant who:

(A) made a valid application for an Aged Parent (Residence) (Class BP) visa before the day on which this item commences; and

- (B) withdrew that application at the same time as making the application for the Contributory Aged Parent (Residence) (Class DG) visa: Nil
- (ii) For an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application: \$230
- (ia) For an applicant who:
 - (A) held a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (B) is the holder of a substituted Subclass 676 visa at the time of application: \$230
- (iib) For an applicant who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application: \$230
- (iic) For an applicant who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa, and who provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa for the purpose of the application: \$2 525
- (iii) In any other case: \$2 525
- (b) Second instalment (payable before grant of visa):
 - (i) For an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application: \$13 730
 - (ia) For an applicant:
 - (A) who:
 - (I) held a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (II) is the holder of a substituted Subclass 676 visa at the time of application; and
 - (III) is not described in sub-subparagraph (B): \$13 730; or

- (B) who:
 - (I) held a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (II) is, at the time of application, the holder of a substituted Subclass 676 visa or the child or step-child of an applicant mentioned in sub-subparagraph (A); and
 - (III) is a person who is the child or step-child of an applicant for a Contributory Parent (Migrant) (Class CA) visa and has not turned 18 at the time of application for a Contributory Aged Parent (Temporary) (Class UU) visa: Nil
- (ii) For an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, and:
 - (A) is the child or step-child of an applicant for a Contributory Aged Parent (Residence) (Class DG) visa; and
 - (B) had not turned 18 at the time of application for a Contributory Aged Parent (Temporary) (Class UU) visa: Nil
- (ia) For an applicant who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application: \$13 730
- (iib) For an applicant who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa, and in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to be the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application: \$11 700

- (iii) For an applicant who:
 - (A) is a dependent child of an applicant for a Contributory Aged Parent (Residence) (Class DG) visa; and
 - (B) has not turned 18 at the time of application: \$1 485
 - (iv) In any other case: \$34 330.
- (3) Other:
- (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) If the applicant has previously made a valid application for another parent visa:
 - (i) a decision to grant or to refuse to grant that visa has been made; or
 - (ii) the application for that visa has been withdrawn.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Contributory Aged Parent (Residence) (Class DG) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
864 (Contributory Aged Parent)
- (5) In this item, a reference to an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa, means a person who, as the case may be:
- (a) currently holds a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
 - (b) has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
 - (c) has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa, and who provides the Minister with evidence that compassionate and compelling circumstances exist for the person to be considered to be

the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa for the purpose of the application.

1131. Territorial Asylum (Residence) (Class BE)

- (1) Form: Nil.
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made by or on behalf of the applicant in a manner approved by a Minister.
 - (aa) At the time when the application is made, there is lodged at the office of Immigration at which, or with the officer of Immigration to whom, the application is made, documentation that:
 - (i) evidences the grant by a Minister to the applicant of territorial asylum in Australia; and
 - (ii) was issued by or on behalf of the Commonwealth.
 - (b) Application must be made in Australia.
 - (c) Applicant must be in Australia but not in immigration clearance.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Territorial Asylum (Residence) (Class BE) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
 - 800 (Territorial Asylum)

1133. Witness Protection (Trafficking) (Permanent) (Class DH)

- (1) Form: Nil.
- (2) Visa application charge: Nil.

(3) Subclasses:

852 (Witness Protection (Trafficking) (Permanent))

Note See regulation 2.07AK for how an application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa is taken to have been validly made.

**1134. Skilled — Designated Area-sponsored (Residence)
(Class CC)**

(1) Form: 47ST.

(2) Visa application charge:

(a) First instalment (payable at the time application is made):
\$230.

(b) Second instalment (payable before grant of visa):

(i) In the case of an applicant who:

(A) was 18 or more at the time of application;
and

(B) is assessed as not having functional English;
and

(C) has held a Skilled — Designated
Area-sponsored (Provisional) (Class UZ)
visa; and

(D) has not paid a second instalment for the
application for that visa: \$3 510.

(ii) In the case of an applicant who:

(A) was 18 or more at the time of application;
and

(B) is assessed as not having functional English;
and

(C) has not previously held a Skilled —
Designated Area-sponsored (Provisional)
(Class UZ) visa: \$3 510.

(iii) In any other case: Nil.

(3) Other:

(a) Applicant may be in or outside Australia, but not in
immigration clearance.

- (b) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
- (c) Applicant seeking to satisfy the primary criteria must be the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa and must have held a visa of that class for at least 2 years.
- (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Designated Area-sponsored (Residence) (Class CC) visa may be made at the same time and place as, and combined with, the application by that person.
- (e) Application must be accompanied by evidence that each applicant who is at least 16 has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- (f) Application must be accompanied by a sponsorship form 40 completed by the person who is the sponsor of the applicant.
- (g) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.

(4) Subclasses:

883 (Skilled — Designated Area-sponsored (Residence))

1135. Skilled (Migrant) (Class VE)

- (1) Forms: 1276 and 1276 (Internet).
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$2 525
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of an applicant:

- (A) who had turned 18 at the time of application;
and
 - (B) who is assessed as not having functional
English: \$3 510
 - (ii) In any other case: Nil.
- (3) Other:
- (a) Application must be made:
 - (i) as an Internet application; or
 - (ii) by posting the application (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this subparagraph; or
 - (iii) by having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
- Note* An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.
- (b) Applicant seeking to satisfy the primary criteria must be less than 45.
 - (c) Applicant seeking to satisfy the primary criteria must nominate a skilled occupation in his or her application.
 - (d) Application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.
- (4) Subclasses:
- 175 (Skilled — Independent)
 - 176 (Skilled — Sponsored)

1136. Skilled (Residence) (Class VB)

- (1) Forms: 1276 and 1276 (Internet).
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):

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- (i) In the case of an applicant who is the holder of:
- (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (C) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (D) a Subclass 487 (Skilled — Regional Sponsored) visa; or
 - (E) a Bridging A (Class WA) or Bridging B (Class WB) visa granted on the basis of a valid application for:
 - (I) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (II) a Skilled (Provisional) (Class VC) visa (other than a Subclass 485 visa): \$230
- (ii) In any other case: \$2 525.
- (b) Second instalment (payable before grant of visa):
- (i) In the case of an applicant who:
- (A) had turned 18 at the time of application; and
 - (B) is assessed as not having functional English; and
 - (C) has not paid a second instalment of visa application charge in relation to the application for the visa, mentioned in paragraph (a), that the applicant holds: \$3 510
- (ii) In any other case: Nil.
- (3) Other:
- (a) Application must be made:
- (i) as an Internet application; or
 - (ii) by posting the application (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this subparagraph; or

- (iii) by having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.
 - (d) The requirements of subitem (4), (5), (6) or (7) must be satisfied.
- (4) The following requirements must be met:
- (a) one of the following subparagraphs must be satisfied by the applicant:
 - (i) the applicant must be the holder of an eligible student visa;
 - (ii) the applicant must be the holder of a Bridging A (Class WA) visa or Bridging B (Class WB) visa that was granted on the basis of a valid application for a visa other than 1 of the following visas:
 - (A) a Subclass 570 (Independent ELICOS Sector) visa;
 - (B) a Subclass 571 (Schools Sector) visa;
 - (C) a Subclass 572 (Vocational Education and Training Sector) visa, a Subclass 573 (Higher Education Sector) visa, or a Subclass 574 (Postgraduate Research Sector) visa, that was applied for on the basis that the applicant seeking to satisfy the primary criteria for the grant of that visa intends to undertake a course of study paid for, wholly or in part, by:
 - (I) the Commonwealth or the government of a State or Territory; or

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- (II) the government of a foreign country;
or
 - (III) a multilateral agency;
and for which a condition of payment by that
body for the course is that the student will
leave Australia on the completion of the
course;
 - (D) a Subclass 572 (Vocational Education and
Training Sector) visa, a Subclass 573 (Higher
Education Sector) visa, or a Subclass 574
(Postgraduate Research Sector) visa that was
applied for on the basis that the applicant
seeking to satisfy the primary criteria for the
grant of that visa intends to undertake a
course of study or training under a
scholarship scheme or training program
approved by:
 - (I) the AusAID Minister; or
 - (II) the Defence Minister;and for which a condition of that scheme or
program is that the student will leave
Australia on completion of the course;
 - (E) a Subclass 575 (Non-Award Sector) visa;
 - (F) a Subclass 576 (AusAID or Defence Sector)
visa;
- and must also have held an eligible student visa at
any time during the period of 6 months ending
immediately before the day on which the application
is made;
- (iii) the applicant must:
 - (A) be the holder of a substantive visa other than
a visa mentioned in sub-subparagraphs
(ii) (A) to (F); and
 - (B) have held an eligible student visa at any time
during the period of 6 months ending
immediately before the day on which the
application for the Skilled (Residence)
(Class VB) visa is made;

- (iv) the applicant must have been taken, under sections 368C, 368D and 379C of the Act to have been notified that the Migration Review Tribunal has set aside and substituted the Minister's decision not to revoke the cancellation of the applicant's eligible student visa not more than 28 days before the day on which the application is made;
 - (b) the applicant seeking to satisfy the primary criteria for the grant of the visa:
 - (i) must be less than 45; and
 - (ii) must nominate a skilled occupation in the application for which at least 50 points are available as specified by the Minister in an instrument in writing for this subparagraph.
- (5) The following requirements must be met:
- (a) the applicant must be:
 - (i) the holder of a Subclass 476 (Skilled — Recognised Graduate) visa; or
 - (ii) the holder of a Subclass 485 (Skilled — Graduate) visa;
 - (b) the applicant seeking to satisfy the primary criteria for the grant of the visa must:
 - (i) have been granted the visa mentioned in paragraph (a) on the basis of satisfying the primary criteria for the grant of that visa; and
 - (ii) nominate a skilled occupation in the application for which at least 50 points are available as specified by the Minister in an instrument in writing for this subparagraph.
- (6) The following requirements must be met:
- (a) each applicant must be the holder of a Subclass 471 (Trade Skills Training) visa;
 - (b) the applicant seeking to satisfy the primary criteria for the grant of the visa:
 - (i) must have been the holder, for a total of at least 2 years before the day on which the application was made, of the Subclass 471 (Trade Skills Training)

visa mentioned in paragraph (a) that was granted on the basis of satisfying the primary criteria for the grant of that visa; and

- (ii) must be less than 45; and
 - (iii) must nominate a skilled occupation in the application for which at least 50 points are available as specified by the Minister in an instrument in writing for this subparagraph.
- (7) The following requirements must be met:
- (a) the applicant must be the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa; or
 - (v) a Bridging A (Class WA) visa or Bridging B (Class WB) visa that was granted on the basis of a valid application for:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Skilled (Provisional) (Class VC) visa;
 - (b) the applicant seeking to satisfy the primary criteria for the grant of the visa must have been, for a total of at least 2 years before the day on which the application was made, the holder of 1 of the following visas:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa;
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa;

(iv) a Subclass 487 (Skilled — Regional Sponsored) visa;

that was granted on the basis of satisfying the primary criteria for the grant of that visa, or of being the spouse or de facto partner of the applicant who satisfied the primary criteria for the grant of the visa.

(8) Subclasses:

885 (Skilled — Independent)

886 (Skilled — Sponsored)

887 (Skilled — Regional)

Part 2 Temporary visas (other than bridging visas)

Note Arrangements that affect certain visas mentioned in this Part can be found in regulation 2.12BC.

1201. Border (Temporary) (Class TA)

(1) Form: 871.

(2) Visa application charge: Nil.

(3) Other:

(a) In the case of an application by a non-citizen who:

(i) is a dependent child of a non-citizen; and

(ii) is the holder of a Subclass 773 visa:

(A) application may be made in Australia; and

(B) applicant must be in Australia.

(b) In any other case:

(i) Application must be made in immigration clearance.

(ii) Applicant must be in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Border (Temporary) (Class TA) visa may be made at the same time and place as, and combined with, the application by that person.

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- (4) Subclasses:
773 (Border)

1202A. Business Skills (Provisional) (Class UR)

- (1) Forms:
- (a) 47BT and:
 - (i) 1136; or
 - (ii) 1137; or
 - (iii) 1139; and
 - (b) For applicant seeking to satisfy the primary criteria for the grant of:
 - (i) a Subclass 163 (State/Territory Sponsored Business Owner (Provisional)) visa; or
 - (ii) a Subclass 164 (State/Territory Sponsored Senior Executive (Provisional)) visa; or
 - (iii) a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa:
949.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made): \$3 360
 - (b) Second instalment (payable before grant of visa):
 - (i) For each applicant who:
 - (A) was at least 18 years old at time of application; and
 - (B) is assessed as not having functional English; and
 - (C) satisfies the primary criteria for the grant of a visa of a subclass included in Business Skills (Provisional) (Class UR): \$7 040
 - (ii) For each applicant who:
 - (A) was at least 18 years old at time of application; and
 - (B) is assessed as not having functional English; and

- (C) satisfies the secondary criteria for the grant of a visa of a subclass included in Business Skills (Provisional) (Class UR): \$3 510
- (iii) In any other case: Nil.
- (3) Other:
- (a) Application must be made:
- (i) if the applicant's residential address, given using form 47BT, is in PRC, including Hong Kong or Macau — at the address in Hong Kong specified in a Gazette Notice for this subparagraph; or
 - (ii) if the applicant's residential address, given using form 47BT, is in Taiwan — at the address in Taipei specified in a Gazette Notice for this subparagraph; or
 - (iii) if subparagraphs (i) and (ii) do not apply — at the address in Perth specified in a Gazette Notice for this subparagraph.
- (b) Applicant may be in or outside Australia, but not in immigration clearance.
- (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Business Skills (Provisional) (Class UR) visa may be made at the same time and place as, and combined with, the application by that person.
- (d) For applicant seeking to satisfy the primary criteria for the grant of a Subclass 163 (State/Territory Sponsored Business Owner (Provisional)), 164 (State/Territory Sponsored Senior Executive (Provisional)) or 165 (State/Territory Sponsored Investor (Provisional)) visa:
- (i) applicant must be sponsored by an appropriate regional authority; and
 - (ii) form 949 must be signed by an officer of the authority who is authorised to sign a sponsorship of that kind.
- (4) Subclasses:
- 160 (Business Owner (Provisional))
 - 161 (Senior Executive (Provisional))

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- 162 (Investor (Provisional))
 - 163 (State/Territory Sponsored Business Owner (Provisional))
 - 164 (State/Territory Sponsored Senior Executive (Provisional))
 - 165 (State/Territory Sponsored Investor (Provisional))

1205. Cultural/Social (Temporary) (Class TE)

- (1) Form: 147.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of each applicant who applies outside Australia and who appears to the Minister, on the basis of the information contained in the application:
 - (A) to meet the requirements for the grant of a Subclass 411 (Exchange) visa; or
 - (B) subparagraph (iii): Nil
 - (ia) In the case of an applicant who is outside Australia at the time of application, and who appears to the Minister on the basis of information contained in the application to meet the requirements of subparagraph (ii): Nil
 - (ii) An applicant meets the requirements of this subparagraph if the purpose of the applicant's visit is to perform as an entertainer, or to assist in performances, and:
 - (A) the Minister is satisfied that the purpose of the applicant's visit to Australia is:
 - (I) cultural; and
 - (II) not for a pecuniary reward exceeding the expenses of the applicant; or
 - (B) the applicant is sponsored to enter Australia for the purpose of performing at a festival specified by the Minister in a Gazette Notice for this sub-subparagraph; or

- (BA) the applicant is sponsored to enter Australia for the purpose of performing at a festival approved by the Secretary for this sub-subparagraph; or
 - (C) the applicant is sponsored to enter Australia by an organisation that:
 - (I) is funded, wholly or in part, by the Commonwealth; and
 - (II) is approved by the Secretary for the purposes of this subitem.
 - (iii) An applicant satisfies the requirements of this subparagraph if the application is made on the basis that the applicant is:
 - (A) entered, as an amateur participant, in a sporting event; or
 - (B) appointed or employed to assist:
 - (I) an amateur participant in a sporting event; or
 - (II) an amateur team that is participating in a sporting event.
 - (iv) In the case of an applicant who:
 - (A) applies outside Australia; and
 - (B) is a member of a sporting body that comprises at least 10 other applicants:

A charge that is equal to \$2 600 divided by the number of applicants included in that body.
 - (iva) In the case of an applicant who:
 - (A) is outside Australia at the time of application; and
 - (B) is a member of an entertainment body that comprises at least 10 other applicants:

A charge that is equal to \$2 600 divided by the number of applicants included in that body.
 - (v) In any other case: \$260
- (b) Second instalment (payable before grant of visa): Nil.

(3) Other:

- (a) Application (other than an application by a person seeking to satisfy the criteria for the grant of a Subclass 416 (Special Program) visa or a Subclass 420 (Entertainment) visa) may be made in or outside Australia, but not in immigration clearance.
- (aa) Applicant seeking to satisfy a criterion for the grant of a Subclass 416 (Special Program) visa specified in paragraph 416.222 (d) of Schedule 2 must be outside Australia when the application is made.
- (b) Applicant other than:
 - (i) an applicant mentioned in paragraph (a); or
 - (ii) an applicant seeking to satisfy criteria for the grant of a Subclass 416 (Special Program) visa other than the criterion specified in paragraph 416.222 (d) of Schedule 2; or
 - (iii) an applicant seeking to satisfy the criteria for the grant of a Subclass 420 (Entertainment) visa;must be in Australia when the application is made.
- (ba) Application by a person seeking to satisfy the criteria for the grant of a Subclass 416 (Special Program) visa must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph; or
 - (iii) having the application sent by facsimile to the address specified in a Gazette Notice for this subparagraph.
- (c) Application by a person seeking to satisfy the criteria for the grant of a Subclass 420 (Entertainment) visa must be accompanied by a completed form 148 and must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or

- (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph; or
- (iii) having the application sent by facsimile to the address specified in a Gazette Notice for this subparagraph.

Note Regulation 2.12BC sets out special arrangements for the making of applications by persons designated under regulation 2.07AO. The arrangements in paragraph 1205 (3) (c) do not apply to those persons.

- (d) Application by a person claiming to be a member of the family unit of a person may be made at the same time and place as, and combined with, an application by any other member of the family unit seeking to satisfy either the primary or secondary criteria.

(4) Subclasses:

- 411 (Exchange)
- 416 (Special Program)
- 420 (Entertainment)
- 421 (Sport)
- 423 (Media and Film Staff)
- 428 (Religious Worker)

1206. Diplomatic (Temporary) (Class TF)

- (1) Form: Nil.
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made by or on behalf of the applicant in a manner approved by the Minister.
 - (b) Application may be made in or outside Australia, but not in immigration clearance.
 - (c) Applicant must be in Australia to make an application in Australia.
- (4) Subclasses:
 - 995 (Diplomatic (Temporary))

1207. Domestic Worker (Temporary) (Class TG)

- (1) Form: 147.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$260
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application may be made in or outside Australia, but not in immigration clearance.
 - (b) Applicant must be in Australia to make an application in Australia.
 - (c) Application by a person claiming to be a member of the family unit of a person seeking to satisfy the criteria for a Subclass 427 (Domestic Worker (Temporary) — Executive) visa may be made at the same time and place as, and combined with, an application by any other member of the family unit seeking to satisfy either the primary or secondary criteria for a Subclass 427 (Domestic Worker (Temporary) — Executive) visa.
- (4) Subclasses:
 - 426 (Domestic Worker (Temporary) — Diplomatic or Consular)
 - 427 (Domestic Worker (Temporary) — Executive)

1208. Educational (Temporary) (Class TH)

- (1) Form: 147.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who:
 - (A) holds a valid diplomatic, official or service passport; and
 - (B) holds a third person note of support for the application from the government or a government agency of the applicant's home country; and

- (C) appears to the Minister, on the basis of the information contained in the application, to meet the requirements for the grant of a Subclass 415 visa: Nil
 - (ii) In any other case: \$260
- (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application may be made in or outside Australia, but not in immigration clearance.
 - (b) Applicant must be in Australia to make an application in Australia.
 - (c) Application by a person claiming to be a member of the family unit of a person may be made at the same time and place as, and combined with, an application by any other member of the family unit seeking to satisfy either the primary or secondary criteria.
- (4) Subclasses:
 - 415 (Foreign Government Agency)
 - 418 (Educational)
 - 419 (Visiting Academic)
 - 442 (Occupational Trainee)

1208A. Electronic Travel Authority (Class UD)

- (1) Form: Nil.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to meet the requirements for the grant of a Subclass 956 (Electronic Travel Authority (Business Entrant — Long Validity)) visa: \$90
 - (ii) In any other case: Nil
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application may be made in or outside Australia.

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- (b) If the application is made in immigration clearance, applicant must be in immigration clearance.
 - (ba) If the application is made in Australia (except in immigration clearance), or outside Australia, applicant must be outside Australia.
 - (bb) If the application is made outside Australia, application must be made at:
 - (i) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (ii) an office of an agent who is approved in writing by the Minister as an agent with whom an application for an Electronic Travel Authority (Class UD) visa may be made.
 - (bc) If the application is made in Australia, application must be made:
 - (i) in immigration clearance; or
 - (ii) at an office of an agent who is approved in writing by the Minister as an agent with whom an application for an Electronic Travel Authority (Class UD) visa may be made.
 - (c) Applicant must hold an ETA-eligible passport.
 - (e) Application by a person included in the passport of another person may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 956 (Electronic Travel Authority (Business Entrant — Long Validity))
 - 976 (Electronic Travel Authority (Visitor))
 - 977 (Electronic Travel Authority (Business Entrant — Short Validity))

1209. Emergency (Temporary) (Class TI)

- (1) Form: 1003.
- (2) Visa application charge: Nil.

- (3) Other:
 - (a) Application may be made inside or outside Australia, but not in immigration clearance.
 - (b) Applicant must be in Australia to make an application in Australia.
 - (c) Application by a person claiming to be a member of the family unit of a person may be made at the same time and place as, and combined with, an application by any other member of the family unit seeking to satisfy either the primary or secondary criteria.
- (4) Subclasses:
 - 302 (Emergency (Permanent Visa Applicant))
 - 303 (Emergency (Temporary Visa Applicant))

1211. Extended Eligibility (Temporary) (Class TK)

- (1) Form: 918.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who:
 - (A) applies as the dependent child of a holder of a Subclass 309, 310, 445, 820 or 826 visa; and
 - (B) whose brother or sister:
 - (I) applies, as a dependent child of a holder of a Subclass 309, 310, 445, 820 or 826 visa, for an Extended Eligibility (Temporary) (Class TK) visa at the same time and place as the applicant; and
 - (II) has paid the fee specified in subparagraph (ii) on his or her application: Nil
 - (ii) In any other case: \$185
 - (b) Second instalment (payable before grant of visa): Nil.

(3) Other:

- (a) Application by the dependent child of a holder of a visa of Subclass 309, 310, 445, 820 or 826 may be made in or outside Australia, but not in immigration clearance.
- (aa) Applicant must be in Australia to make an application in Australia.
- (ab) Application by an applicant in Australia must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph.

Note Regulation 2.12BC sets out special arrangements for the making of applications by persons designated under regulation 2.07AO. The arrangements in paragraph 1211 (3) (ab) do not apply to those persons.

- (b) Application by a person claiming to be a dependent child of a person who is an applicant for an Extended Eligibility (Temporary) (Class TK) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

445 (Dependent Child)

1212A. Graduate — Skilled (Temporary) (Class UQ)

- (1) Form: 1182.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$230
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.

- (c) Applicant must state in the application an intention to make a valid application for a Skilled — Independent Overseas Student (Class DD), Skilled — Australian-sponsored Overseas Student (Class DE) or Skilled — Independent Regional (Provisional) (Class UX) visa.
- (ca) Applicant must be:
- (i) the holder of a Bridging A (Class WA) visa granted on the basis that the applicant met the requirements of subclause 010.211 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (d); or
 - (ii) the holder of a Bridging B (Class WB) visa granted on the basis that the applicant met the requirements of subclause 020.212 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (d); or
 - (iii) a person to whom paragraph (d) applies.
- (d) This paragraph applies to an applicant who is the holder of a substantive visa other than:
- (i) a Subclass 497 (Graduate — Skilled) visa; or
 - (ii) a Subclass 560 (Student) visa granted to:
 - (A) the applicant as a person who satisfied the primary criteria for that visa (the *primary person*) in relation to undertaking:
 - (I) a registered English language course or an ELICOS; or
 - (II) a course of study paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency; or
 - (III) a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; or

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- (IV) a non-award course; or
 - (B) the applicant as a member of the family unit of the primary person; or
 - (iii) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependant), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Postgraduate Research Sector) visa granted to:
 - (A) the applicant as a person who satisfied the primary criteria for the visa (the *primary person*) in relation to undertaking a course mentioned in sub-sub-subparagraph (ii) (A) (II) or (III); or
 - (B) the applicant as a member of the family unit of the primary person; or
 - (iv) a Subclass 570 (Independent ELICOS Sector) visa; or
 - (v) a Subclass 571 (Schools Sector) visa; or
 - (vi) a Subclass 575 (Non-Award Sector) visa; or
 - (vii) a Subclass 576 (AusAID or Defence Sector) visa.
 - (da) Applicant is taken to have complied with paragraph (d) if:
 - (i) the applicant is not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation; and
 - (iii) that last substantive visa was a visa other than a visa of a kind mentioned in paragraph (d); and
 - (iv) the applicant has lodged the application within 28 days after the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision.
 - (e) If the substantive visa, held by an applicant who complies with paragraph (d) (other than an applicant to whom paragraph (ea) applies), is not a Subclass 560, 562, 563, 572, 573 or 574 visa, the applicant must have been, at

some time in the 6 months immediately before making the application, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa that is not of a kind mentioned in paragraph (d).

- (ea) If the last substantive visa, held by an applicant who is taken, under paragraph (da), to have complied with paragraph (d), was not a Subclass 560, 562, 563, 572, 573 or 574 visa, the applicant must have been, at some time in the 6 months immediately before that visa was cancelled, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa that was not of a kind mentioned, at the time of cancellation, in paragraph (d).
- (f) Applicant must not have been an unlawful non-citizen at any time in the 6 months immediately before making the application.
- (g) Applicant seeking to satisfy the primary criteria must nominate a skilled occupation in his or her application.
- (h) Application by an applicant seeking to satisfy the primary criteria must be accompanied by satisfactory evidence that:
 - (i) the applicant has applied to the relevant assessing authority for an assessment of the suitability of his or her skills for the skilled occupation nominated by the applicant in his or her application; and
 - (ii) either:
 - (A) each of the following sub-sub-subparagraphs applies in relation to the applicant:
 - (I) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;

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- (II) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (III) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (B) each of the following sub-sub-subparagraphs applies in relation to the applicant:
- (I) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (II) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (III) the 2 or more degrees, diplomas or trade qualifications mentioned in sub-sub-subparagraphs (I) and (II) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;

- (IV) each of the degrees, diplomas or trade qualifications mentioned in sub-sub-paragraphs (I) and (II) was completed at the institution at which it was commenced;
 - (V) each of the degrees, diplomas or trade qualifications mentioned in sub-sub-paragraphs (I) and (II) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (VI) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-sub-paragraphs (I) and (II) was conducted in English.
- (i) Applicant seeking to satisfy the primary criteria must be less than 45 years of age.
 - (j) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
 - (k) If the applicant is, or was at any time, the holder of an AusAID student visa within the meaning of regulation 1.04A or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574, 575 or 576 visa granted to the applicant for a course of study or training for which the applicant is or was provided financial support by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency:
 - (i) the course of study or training (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months; or

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- (ii) the applicant:
 - (A) has ceased, completed, withdrawn from, or been excluded from:
 - (I) the course of study or training to which the visa relates or related; or
 - (II) another course approved by the AusAID Minister, or the government or multilateral agency that provided financial support to the applicant, as the case requires, in substitution for that course; and
 - (B) has spent at least 2 years outside Australia since ceasing or completing, or withdrawing or being excluded from, the course.
 - (ka) Applicant who is, or was at any time, a member of the family unit of a person:
 - (i) who was the holder of a visa of a kind mentioned in paragraph (k); and
 - (ii) to whom subparagraph (k) (ii) applies;
must have spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.
 - (l) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Graduate — Skilled (Temporary) (Class UQ) visa may be made at the same time and place as, and combined with, the application by that person.
 - (m) Applicant must:
 - (i) satisfy paragraphs (a) to (ka); or
 - (ii) in the case of an applicant who:
 - (A) is a member of the family unit of an applicant who satisfies paragraphs (a) to (ka); and
 - (B) makes a combined application with that applicant;
satisfy paragraphs (a) to (f) and (j) to (ka).

(n) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.

(4) Subclasses:

497 Graduate — Skilled

(5) In this item:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and **diploma** have the meanings given in subregulation 2.26A (6).

trade qualification has the meaning given in subregulation 2.26A (6).

Note For **relevant assessing authority** and **skilled occupation**, see regulation 1.03.

1212B. Investor Retirement (Class UY)

(1) Form: 147.

(2) Visa application charge:

(a) First instalment (payable at the time application is made): \$230.

(b) Second instalment (payable before grant of visa): \$10 440.

(3) Other:

(a) Application must be made by:

(i) posting the application (with the correct pre-paid postage) to the post office box address specified in an instrument in writing for this subparagraph; or

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- (ii) having the application delivered by a courier service, or otherwise hand-delivered, to the address specified in an instrument in writing for this subparagraph.
 - (b) Applicant may be in or outside Australia, but not in immigration clearance.
 - (c) Application by a person claiming to be the spouse or de facto partner of a person who is an applicant for an Investor Retirement (Class UY) visa may be made at the same time and place as, and combined with, the application by that person.
 - (d) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 405 visa must:
 - (i) be sponsored by an appropriate regional authority; and
 - (ii) provide, with the application, form 1249 signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
 - (iii) be at least 55 years old, unless:
 - (A) the applicant is the holder of an Investor Retirement (Class UY) visa; or
 - (B) the last substantive visa held by the applicant since last entering Australia was an Investor Retirement (Class UY) visa.

Note For *appropriate regional authority*, see regulation 1.03.

- (4) Subclasses:
 - 405 (Investor Retirement)

1214AA. Medical Practitioner (Temporary) (Class UE)

- (1) Form: 147
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$260
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.

(c) Application by a person claiming to be a member of the family unit of a person may be made at the same time and place as, and combined with, an application by any other member of the family unit seeking to satisfy either the primary or secondary criteria.

- (4) Subclasses:
422 (Medical Practitioner)

1214A. Medical Treatment (Visitor) (Class UB)

- (1) Form:
- (a) If the applicant is outside Australia (whether or not the application is made outside Australia): 48ME.
 - (b) If the applicant is in Australia: 601.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
 - (i) Subject to subparagraph (iii), in the case of an applicant who is outside Australia when he or she applies (whether or not the application is made outside Australia):
 - (A) If the applicant seeks a visa that will permit him or her to remain in Australia for more than 3 months: \$55
 - (B) If the applicant seeks a visa that will permit him or her to travel to, and enter, Australia for:
 - (I) 4 years; or
 - (II) the remaining period of validity of the applicant's passport (if that period exceeds 12 months): \$55
 - (C) In any other case: Nil
 - (ii) Subject to subparagraph (iii), in the case of an applicant who is in Australia: \$225
 - (iii) In the case of an applicant who applies in the course of acting as a representative for a foreign government: Nil
 - (b) Second instalment (payable before grant of visa): Nil.

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- (3) Other:
- (a) Application may be made in or outside Australia, but not in immigration clearance.
 - (b) If the applicant is outside Australia, the application may be made in the migration zone if and only if no fee is payable on the application.
 - (ba) If the application is made outside Australia, application must be made at:
 - (i) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (ii) an office of a visa application agency that is approved in writing by the Minister for the purpose of receiving applications for Medical Treatment (Visitor) (Class UB) visas.
 - (c) Application by a person included in the passport of another person may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 675 (Medical Treatment (Short Stay))
 - 685 (Medical Treatment (Long Stay))

**1214BA. New Zealand Citizen Family Relationship (Temporary)
(Class UP)**

- (1) Form: 147.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$230
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application may be made in or outside Australia (but not in immigration clearance).
 - (b) Applicant must be in Australia to make an application in Australia.

(c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a New Zealand Citizen Family Relationship (Temporary) (Class UP) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

461 New Zealand Citizen Family Relationship (Temporary))

1214C. Partner (Temporary) (Class UK)

(1) Form: 47SP or 47SP (Internet).

(2) Visa application charge: Nil.

(3) Other:

(a) Application must be made at the same time and place as an application for a Partner (Residence) (Class BS) visa.

(b) Application must be made in Australia, but not in immigration clearance.

(c) Applicant must be in Australia, but not in immigration clearance.

(e) Application by a person claiming to be a member of the family unit of the holder or former holder of a prospective marriage (temporary) visa (as defined in clause 820.111 of Schedule 2) who is an applicant for a Partner (Temporary) visa may be made at the same time and place as, and combined with, the application by that person.

(f) Application by a person claiming to be a dependent child of a person who is an applicant for a Partner (Temporary) (Class UK) visa may be made at the same time and place as, and combined with, the application by that person.

(g) If:

(i) the applicant is the holder of:

(A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or

(B) a Subclass 475 (Skilled — Regional Sponsored) visa; or

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- (C) a Subclass 487 (Skilled — Regional Sponsored) visa; or
 - (ii) the last substantive visa held by the applicant was:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;the applicant must have held that visa for at least 2 years.
- (4) Subclasses:
820 (Partner)

1215. Prospective Marriage (Temporary) (Class TO)

- (1) Form: 47SP or 47SP (Internet).
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$1 705
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application must be made outside Australia.
 - (b) Applicant must be outside Australia.
 - (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Prospective Marriage (Temporary) (Class TO) visa must be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
300 (Prospective Marriage)

1216. Resident Return (Temporary) (Class TP)

- (1) Form: 1085.

- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$120
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application must be made outside Australia.
 - (b) Application by a person who is included in the passport of another applicant for a Resident Return (Temporary) (Class TP) visa may be made at the same time and place as, and combined with, the application by that other applicant.
 - (c) Application by a person is not a valid application if:
 - (i) the most recent permanent visa held by the person is, or was, the subject of a notice, under subsection 135 (1) of the Act, proposing cancellation; and
 - (ii) the person has not been notified of a decision not to proceed with the cancellation; and
 - (iii) the visa was not the subject of a decision to cancel the visa under section 134 of the Act.
 - (d) Application by a person is not a valid application if:
 - (i) the most recent permanent visa held by the person was the subject of a decision to cancel the visa under section 134 of the Act (whether or not the decision has come into effect); and
 - (ii) the decision to cancel the visa has not been set aside by the AAT.
- (4) Subclasses:
 - 159 (Provisional Resident Return)

1216A. Resolution of Status (Temporary) (Class UH)

- (1) Form: 1096.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an application made outside Australia: Nil

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- (ii) In the case of an application made in Australia:
\$2 900
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of each applicant who:
 - (A) is in Australia; and
 - (B) was 18 years or more at time of application;
and
 - (C) is assessed as not having functional English;
and
 - (D) satisfies the primary criteria for the grant of a
visa of a subclass included in Resolution of
Status (Temporary) (Class UH): \$6 415
 - (ii) In the case of each applicant who:
 - (A) is outside Australia; and
 - (B) was 18 years or more at time of application;
and
 - (C) is assessed as not having functional English;
and
 - (D) satisfies the primary criteria for the grant of a
visa of a subclass included in Resolution of
Status (Temporary) (Class UH): \$3 215
 - (iii) In the case of each applicant who:
 - (A) was 18 years or more at time of application;
and
 - (B) is assessed as not having functional English;
and
 - (C) satisfies the secondary criteria for the grant
of a visa of a subclass included in Resolution
of Status (Temporary) (Class UH): \$3 215
 - (iv) In any other case: Nil
 - (3) Other:
 - (a) Application may be made in Australia, but not in
immigration clearance, if:
 - (i) it is made during the period from 1 October 1997 to
31 March 1998 (inclusive); and
 - (ii) at the time when it is made, the applicant is in
Australia.

- (b) Application may be made outside Australia if:
 - (i) subject to paragraph (i), it is made during the period from 1 October 1997 to 30 June 1998 (inclusive); and
 - (ii) at the time when it is made, the applicant is outside Australia.
- (c) In the case of an application mentioned in paragraph (a), the application must be accompanied by satisfactory evidence that:
 - (i) the applicant, or at least 1 person who makes a combined application with the applicant, entered Australia, as the holder of:
 - (A) a valid passport of a country specified in paragraph (d); and
 - (B) an entry permit or an entry visa that had effect as an entry permit; and
 - (ii) the applicant or the person, as the case requires, so entered Australia on or before the date specified in paragraph (d) in relation to that country.
- (d) The countries and dates mentioned in paragraph (c) are as follows:
 - (i) Iraq — 31 October 1991;
 - (ii) Kuwait — 31 October 1991;
 - (iii) Lebanon — 30 November 1991;
 - (iv) PRC — 1 November 1993;
 - (v) Sri Lanka — 1 November 1993;
 - (vi) Socialist Federal Republic of Yugoslavia — 1 November 1993;
 - (vii) Federal Republic of Yugoslavia — 1 November 1993;
 - (viii) Former Yugoslav Republic of Macedonia — 1 November 1993;
 - (ix) Republic of Bosnia and Herzegovina — 1 November 1993;
 - (x) Republic of Croatia — 1 November 1993;
 - (xi) Republic of Slovenia — 1 November 1993.

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- (e) In the case of an application mentioned in paragraph (a), the application must be made at the same time and place as an application, by the applicant, for a Resolution of Status (Residence) (Class BL) visa.
- (f) In the case of an application mentioned in paragraph (a) by an applicant who claims to be:
- (i) a member of the immediate family of a person (*the principal person*) who is also making an application mentioned in that paragraph; or
 - (ii) a dependent child of the spouse of the principal person, being a spouse who is an applicant for a Resolution of Status (Temporary) (Class UH) or Resolution of Status (Residence) (Class BL) visa;
- the application may be made at the same time and place as, and combined with, the application by the principal person.
- (g) In the case of an application mentioned in paragraph (b), subject to paragraph (i), the application specifies a valid application mentioned in paragraph (a), by another person (*the sponsor*), that identifies the applicant as:
- (i) either:
 - (A) a member of the immediate family of the sponsor; or
 - (B) a dependent child of the spouse of the sponsor, being a spouse who is an applicant for a Resolution of Status (Temporary) (Class UH) visa; and
 - (ii) a person who is sponsored by the sponsor.
- (h) An application mentioned in paragraph (b) may be made at the same time and place as, and combined with, another such application if each applicant claims to be:
- (i) identified, in the application of a person (*the sponsor*) who has made a valid application mentioned in paragraph (a), as:
 - (A) a member of the immediate family of the sponsor; or

- (B) a dependent child of the spouse of the sponsor, being a spouse who is an applicant for a Resolution of Status (Temporary) (Class UH) visa; and
- (ii) sponsored by the sponsor.
- (i) If:
 - (i) the applicant is a dependent child of a person (*the sponsor*) who has made a valid application mentioned in paragraph (a); and
 - (ii) the applicant is sponsored by the sponsor; and
 - (iii) the Minister is satisfied that compelling and compassionate circumstances exist for the applicant to make the application;
the application:
 - (iv) may be made outside Australia at any time before the grant to the sponsor of a Resolution of Status (Residence) (Class BL) visa; and
 - (v) need not specify the valid application made by the sponsor.
- (4) Subclasses:
 - 450 (Resolution of Status — Family Member (Temporary))
 - 850 (Resolution of Status (Temporary))

1217. Retirement (Temporary) (Class TQ)

- (1) Form: 147.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who:
 - (A) is the holder of a Subclass 410 visa granted before 1 July 2009 (the *earlier visa*); and
 - (B) applies for a new Subclass 410 visa that would expire not later than the day on which the earlier visa would have expired: Nil
 - (ii) In any other case: \$260.

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- (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) Application must be made by:
- (i) posting the application (with the correct pre-paid postage) to the post office box address specified in an instrument in writing for this subparagraph; or
 - (ii) having the application delivered by a courier service, or otherwise hand-delivered, to the address specified in an instrument in writing for this subparagraph.
- (b) Applicant may be in or outside Australia, but not in immigration clearance.
- (c) Application by a person claiming to be a member of the family unit of a person may be made at the same time and place as, and combined with, an application by any other member of the family unit seeking to satisfy either the primary or secondary criteria.
- (d) Application may be made on or after 1 July 2005 by a person only if:
- (i) the person is the holder of a Subclass 410 visa; or
 - (ii) the last substantive visa held by the person since last entering Australia was a Subclass 410 visa; or
 - (iii) the person claims to be the spouse or de facto partner of a person mentioned in subparagraph (i) or (ii).
- (4) Subclasses:
- 410 (Retirement)

1217A. Sponsored (Visitor) (Class UL)

- (1) Form:
- (a) If the applicant is seeking to satisfy the criteria for the grant of a Subclass 459 (Sponsored Business Visitor (Short Stay)) visa: 1235 and 1238.
- (b) If the applicant is seeking to satisfy the criteria for the grant of a Subclass 679 (Sponsored Family Visitor) visa: 48S and 1149.

- (2) Visa application charge:
- (a) First instalment (payable at the time the application is made):
- (i) Subject to subparagraphs (ii), (iii) and (iv): \$105
 - (ii) An applicant who makes an application of the kind mentioned in paragraph (1) (a) and who:
 - (A) appears to the Minister, on the basis of the application, to be a person to whom privileges and immunities are, or are expected to be, accorded under:
 - (I) the *International Organisations (Privileges and Immunities) Act 1963*;
or
 - (II) the *Overseas Missions (Privileges and Immunities) Act 1995*; and
 - (B) is expected to be recommended by the Foreign Minister for the grant of the visa: Nil
 - (iii) An applicant who makes an application of the kind mentioned in paragraph (1) (a) in the course of acting as a representative for a foreign government: Nil
 - (iv) An applicant who is the spouse, de facto partner or dependent child of an applicant mentioned in subparagraph (ii) or (iii): Nil.
- (b) Second instalment (payable before the grant of visa): Nil.
- (3) Other:
- (a) Application by a person seeking to satisfy the criteria for the grant of a Subclass 459 (Sponsored Business Visitor (Short Stay)) visa:
- (i) must be made in Australia, but not in immigration clearance; and
 - (ii) must be lodged by the person, agency, instrumentality or organisation mentioned in clause 459.214.

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- (aa) Application by a person seeking to satisfy the criteria for the grant of a Subclass 679 (Sponsored Family Visitor) visa:
- (i) must be made in Australia, but not in immigration clearance; and
 - (ii) must be lodged by the sponsor of the applicant.
- (b) Applicant must be outside Australia.
- (c) Application by the spouse, de facto partner or a dependent child of an applicant (the *primary applicant*) who appears to the Minister, on the basis of information contained in the primary applicant's application, to meet the requirements for the grant of a Subclass 459 (Sponsored Business Visitor (Short Stay)) visa may be made at the same time and place as, and combined with, the application by the primary applicant.
- (d) Application by a person included in the passport of another applicant who appears to the Minister, on the basis of information contained in the other applicant's application, to meet the requirements for the grant of a Subclass 679 (Sponsored Family Visitor) visa may be made at the same time and place as, and combined with, the application by that other applicant.
- (4) Subclasses:
- 459 (Sponsored Business Visitor (Short Stay))
 - 679 (Sponsored Family Visitor)

1218. Tourist (Class TR)

- (1) Form:
- (a) If the applicant is in Australia: 601 or 601E.
 - (b) If the applicant:
 - (i) is a citizen of PRC; and
 - (ii) is in PRC; and
 - (iii) is intending to travel to Australia as a member of a tour organised by a travel agent specified in an instrument in writing for this subparagraph; and

- (iv) makes the application at a diplomatic or consular office maintained by, or on behalf of, the Commonwealth in PRC: 48G or 48G (electronic).
 - (c) If the applicant is outside Australia, and paragraph (b) does not apply: 48, 48 (Internet), 48N or 48R.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant who:
 - (A) applies in the course of acting as a representative of a foreign government; or
 - (B) is in a class of persons specified in an instrument in writing for this sub-paragraph: Nil
 - (ii) In any other case:
 - (A) if the applicant is outside Australia at the time of application: \$105
 - (B) if the applicant is in Australia at the time of application: \$250.
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) If the applicant is in Australia, application must be made in Australia.
 - (b) If the applicant is outside Australia, the application must be made outside Australia.
 - (c) If the application is made outside Australia (not being an application on form 48 (Internet)), application must be made at:
 - (i) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (ii) an office of a visa application agency that is approved in writing by the Minister for the purpose of receiving applications for Tourist (Class TR) visas.
 - (d) Application may be made on form 48 (Internet) if, and only if the applicant is in a class of persons specified in an instrument in writing for this paragraph.

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- (e) Application may be made on form 601E if, and only if, the applicant is the holder of:
 - (i) a Subclass 651 (eVisitor) visa; or
 - (ii) a Subclass 676 (Tourist) visa; or
 - (iii) a Subclass 976 (Electronic Travel Authority (Visitor)) visa.
 - (f) Oral application may be made if, and only if, the applicant:
 - (i) is in Australia (but not in immigration clearance); and
 - (ii) is the holder of:
 - (A) a Long Stay (Visitor) (Class TN) visa; or
 - (B) a Short Stay (Visitor) (Class TR) visa; or
 - (C) a Tourist (Class TR) visa.
 - (g) Application (not being an oral application) by a person included in the passport of another person may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
676 (Tourist)

1218AA Visitor (Class TV)

- (1) Form: 1362 (Internet).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Applicant must be outside Australia.
 - (b) Applicant must hold an eVisitor eligible passport.
- (4) Subclasses:
651 (eVisitor)

1218A. Skilled — Independent Regional (Provisional) (Class UX)

- (1) Forms: 47SK and 47SK (Internet).

(2) Visa application charge:

- (a) First instalment (payable at the time application is made):
- (i) in the case of an applicant for a Skilled—Independent (Migrant) (Class BN) visa who has a written invitation from the Minister under regulation 2.08DA to apply for a Skilled—Independent Regional (Provisional) (Class UX) visa, and has applied for the visa in accordance with that regulation: \$230
 - (ii) in the case of an applicant who is the holder of a Subclass 495 (Skilled—Independent Regional (Provisional)) visa: \$230
 - (iii) in any other case: \$2 525.
- (b) Second instalment (payable before grant of visa):
- (i) if the applicant:
 - (A) has turned 18; and
 - (B) is assessed as not having functional English; and
 - (C) has held a Skilled—Independent Regional (Provisional) (Class UX) visa; and
 - (D) has not paid a second instalment for the application for the visa mentioned in sub-subparagraph (C): \$3 510
 - (ii) if the applicant:
 - (A) has turned 18; and
 - (B) is assessed as not having functional English; and
 - (C) has not previously held a Skilled—Independent Regional (Provisional) (Class UX) visa: \$3 510
 - (iii) in any other case: Nil.

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

(3) Other:

- (b) Application must be made:

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- (i) by posting the application (with the correct pre-paid postage) to the post office box address specified in an instrument in writing for this subparagraph; or
 - (ii) by having the application delivered by a courier service to the address specified in an instrument in writing for this subparagraph; or
 - (iii) as an Internet application.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (c) subitem (4), (5), (5A), (5B) or (6) must be satisfied.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Independent Regional (Provisional) (Class UX) visa may be made at the same time and place as, and combined with, the application by that person.
 - (e) Applicant who is a member of the family unit of an applicant who meets the requirements of subitem (5), and makes a combined application with that applicant must satisfy paragraphs (5) (a), (b), (c), (d), (e), (k) and (l).
 - (f) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.
- (4) If the applicant is the holder of, or is a member of the family unit of the holder of, a Skilled — Independent Regional (Provisional) (Class UX) visa:
- (a) if the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa granted on the basis of satisfying the primary criteria, the applicant has never held another Skilled — Independent Regional (Provisional) (Class UX) visa; and
 - (b) application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

- (5) If the applicant does not meet the requirements of subitem 1218A (4), and is in Australia, and seeks to be eligible for the grant of a Subclass 495 (Skilled — Independent Regional (Provisional)) visa while in Australia:
- (a) The applicant must be:
 - (i) the holder of a Bridging A (Class WA) visa granted on the basis that the applicant met the requirements of subclause 010.211 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (b); or
 - (ii) the holder of a Bridging B (Class WB) visa granted on the basis that the applicant met the requirements of subclause 020.212 (2) or (3) of Schedule 2 on the basis of a valid application for a visa other than a visa mentioned in paragraph (b); or
 - (iii) a person to whom paragraph (b) applies.
 - (ab) Applicant is taken to have complied with paragraph (a) if:
 - (i) the applicant is not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation; and
 - (iii) that last substantive visa was a visa other than a visa of a kind mentioned in paragraph (b); and
 - (iv) the applicant has lodged the application within 28 days after the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision.
 - (ac) If the last substantive visa, held by an applicant who is taken, under paragraph (ab), to have complied with paragraph (a), was not a Subclass 560, 562, 563, 572, 573 or 574 visa, the applicant must have been, at some time in the 6 months immediately before that visa was cancelled, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa that was not of a kind mentioned in paragraph (b).
 - (b) This paragraph applies to an applicant who is the holder of a substantive visa other than:

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- (i) a Subclass 560 (Student) visa granted to:
- (A) the applicant as a person who satisfied the primary criteria for that visa (the ***primary person***) in relation to undertaking:
 - (I) a registered English language course or an ELICOS; or
 - (II) a course of study paid for wholly or in part by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency; or
 - (III) a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister; or
 - (IV) a non-award course; or
 - (B) the applicant as a member of the family unit of the primary person; or
- (ii) a Subclass 562 (Iranian Postgraduate Student), 563 (Iranian Postgraduate Student Dependant), 572 (Vocational Education and Training Sector), 573 (Higher Education Sector) or 574 (Postgraduate Research Sector) visa granted to:
- (A) the applicant as a person who satisfied the primary criteria for the visa (the ***primary person***) in relation to undertaking a course mentioned in sub-sub-subparagraph (i) (A) (II) or (III); or
 - (B) the applicant as a member of the family unit of the primary person; or
- (iii) a Subclass 570 (Independent ELICOS Sector) visa; or
- (iv) a Subclass 571 (Schools Sector) visa; or
- (v) a Subclass 575 (Non-Award Sector) visa; or
- (vi) a Subclass 576 (AusAID or Defence Sector) visa.

- (c) If the applicant is the holder of:
- (i) a Bridging A (Class WA) visa or Bridging B (Class WB) visa; or
 - (ii) a substantive visa that is not a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (b);
- the applicant:
- (iii) must be the holder of a Subclass 497 (Graduate — Skilled) visa; or
 - (iv) must have been, at some time in the 6 months immediately before making the application, the holder of a Subclass 560, 562, 563, 572, 573 or 574 visa of the kind required in paragraph (b).
- (d) Applicant must not have been an unlawful non-citizen at any time in the 6 months immediately before making the application.
- (e) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
- (i) all persons included in the application have undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (A) a Medical Officer of the Commonwealth;
 - (B) a medical practitioner approved by the Minister for this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and
 - (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- (f) Applicant seeking to satisfy the primary criteria:
- (i) must:
 - (A) be less than 45 years old; or
 - (B) if the applicant:

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- (I) has a written invitation from the Minister under regulation 2.08DA; and
 - (II) was less than 45 years old when the application for a Skilled — Independent (Migrant) (Class BN) visa was made; and
 - (III) has applied for the visa in accordance with regulation 2.08DA;
accompany his or her application with a declaration by the applicant that he or she has received such an invitation; and
- (ii) must nominate in his or her application a skilled occupation.
- (g) Applicant seeking to satisfy the primary criteria must, in his or her application:
 - (i) if the applicant has, in the 6 months immediately before the day when the application is made, completed a doctoral degree, in which all instruction was conducted in English, for award by an Australian educational institution as the result of at least 2 years of full-time study in Australia at that institution — nominate a skilled occupation for which at least 50 points are specified by an instrument in writing for this subparagraph as available; or
 - (ii) if the applicant meets the requirements of Part 10 of Schedule 6A to these Regulations — nominate a skilled occupation for which at least 50 points are specified by an instrument in writing for this subparagraph as available; or
 - (iii) in any other case — nominate a skilled occupation for which 60 points are specified by an instrument in writing for this subparagraph as available.
 - (h) Application by the applicant seeking to satisfy the primary criteria must be accompanied by a declaration by that applicant that:
 - (i) each of the following sub-subparagraphs applies in relation to the applicant:

- (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (B) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (ii) each of the following sub-subparagraphs applies in relation to the applicant:
- (A) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (B) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (C) the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;

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- (D) if 1 of the 2 or more degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) is a doctoral degree — the doctoral degree was completed as a result of a total of at least 2 years of full-time study while the applicant was present in Australia;
 - (E) each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was completed at the institution at which it was commenced;
 - (F) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was conducted in English.
- (i) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
 - (j) Application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant is sponsored by a State or Territory government agency.
 - (k) If the applicant is, or was at any time, the holder of an AusAID student visa within the meaning of regulation 1.04A or of a Subclass 560, 562, 563, 570, 571, 572, 573, 574, 575 or 576 visa granted to the applicant for a course of study or training for which the applicant is or was provided financial support by the Commonwealth, the government of a State or Territory, the government of a foreign country or a multilateral agency, application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) the course of study or training (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months; or

- (ii) the applicant:
 - (A) has ceased, completed, withdrawn from, or been excluded from:
 - (I) the course of study or training to which the visa relates or related; or
 - (II) another course approved by the AusAID Minister, or the government or multilateral agency that provided financial support to the applicant, as the case requires, in substitution for that course; and
 - (B) has spent at least 2 years outside Australia since ceasing or completing, or withdrawing or being excluded from, the course.
- (l) Application by an applicant who is, or was at any time, a member of the family unit of a person:
 - (i) who was the holder of a visa of a kind mentioned in paragraph (k); and
 - (ii) to whom subparagraph (k) (ii) applies;must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that the applicant has spent at least 2 years outside Australia since that person ceased, completed, withdrew from or was excluded from the course of study or training to which the visa related.
- (5A) If the applicant is the holder of a Subclass 417 (Working Holiday) visa:
 - (a) the applicant seeking to satisfy the primary criteria must be at least 18 years old and less than 45 years old; and
 - (b) the applicant seeking to satisfy the primary criteria has nominated a skilled occupation in his or her application; and
 - (c) the application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) all persons included in the application have undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (A) a Medical Officer of the Commonwealth;

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- (B) a medical practitioner approved by the Minister for this sub-subparagraph;
 - (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and
 - (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
 - (iii) the applicant seeking to satisfy the primary criteria has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority; and
 - (iv) the applicant seeking to satisfy the primary criteria is sponsored by a State or Territory government agency; and
 - (v) the applicant has been in Australia as the holder of a Working Holiday (Temporary) (Class TZ) visa for a period of at least 6 months immediately before the day when the application is made.
- (5B) If the applicant is the holder of a Subclass 442 (Occupational Trainee) visa:
- (a) the applicant seeking to satisfy the primary criteria must be at least 18 years old and less than 45 years old; and
 - (b) the applicant seeking to satisfy the primary criteria has nominated a skilled occupation in his or her application; and
 - (c) the application must be accompanied by a declaration by the applicant seeking to satisfy the primary criteria that:
 - (i) all persons included in the application have undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (A) a Medical Officer of the Commonwealth;
 - (B) a medical practitioner approved by the Minister for this sub-subparagraph;

- (C) a medical practitioner employed by an organisation approved by the Minister for this sub-subparagraph; and
 - (ii) each applicant who is at least 16 years old has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
 - (iii) the applicant seeking to satisfy the primary criteria has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority; and
 - (iv) the applicant seeking to satisfy the primary criteria is sponsored by a State or Territory government agency; and
 - (v) if the applicant is the holder of a Subclass 442 (Occupational Trainee) visa on the basis of satisfying the primary criteria — the applicant has completed the course, training or work experience for which the applicant was granted the Subclass 442 (Occupational Trainee) visa.
- (6) If the applicant does not meet the requirements of subitem (4), (5), (5A) or (5B):
- (a) Applicant seeking to satisfy the primary criteria:
 - (i) must accompany his or her application with a declaration by the applicant that:
 - (A) he or she is less than 45; or
 - (B) if the applicant:
 - (I) has a written invitation from the Minister under regulation 2.08DA; and
 - (II) was less than 45 years old when the application for a Skilled — Independent (Migrant) (Class BN) visa was made; and
 - (III) has applied for the visa in accordance with regulation 2.08DA;he or she has received such an invitation; and

- (ii) must nominate in his or her application a skilled occupation.
 - (b) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
 - (c) Application by an applicant seeking to satisfy the primary criteria must be accompanied by a declaration by the applicant that the applicant is sponsored by a State or Territory government agency.
- (7) Subclasses:
495 (Skilled — Independent Regional (Provisional))
- (8) In this item:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and **diploma** have the meanings given in subregulation 2.26A (6).

trade qualification has the meaning given in subregulation 2.26A (6).

1219. Special Category (Temporary) (Class TY)

- (1) Form: 15 (unless the application is made using an authorised system, in which case no form is required).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made:
 - (i) if the applicant does not hold a visa:

- (A) in Australia, either in immigration clearance or after immigration clearance; or
 - (B) if the applicant is to travel to Australia on a pre-cleared flight — outside Australia in immigration clearance; or
 - (ii) if the applicant is the holder of a temporary visa — in Australia, but not in immigration clearance.
 - (b) The applicant must present a New Zealand passport that is in force to an officer or a clearance authority.
 - (c) Applicant is not the holder of a permanent visa.
 - (d) If the application is made using an authorised system, the applicant must answer the health and character questions asked by the authorised system.
- (4) Subclasses:
444 (Special Category)

1220A. Partner (Provisional) (Class UF)

- (1) Form: 47SP or 47SP (Internet).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made outside Australia.
 - (b) Applicant must be outside Australia.
 - (c) Application must be made at the same time and place as an application for a Partner (Migrant) (Class BC) visa.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Partner (Provisional) (Class UF) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
309 (Partner (Provisional))

1220B. Sponsored Training (Temporary) (Class UV)

- (1) Form: 1227.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): \$260
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application by a person seeking to satisfy the criteria for the grant of a Subclass 470 (Professional Development) visa:
 - (i) must include evidence of sponsorship by an approved professional development sponsor who is not the subject of a bar mentioned in paragraph 140L (c) or (d) of the Act in relation to the professional development sponsorship approval to which the application relates; and

Note Under paragraph 140L (c) or (d) of the Act, an approved professional development sponsor may be barred for a specified period from sponsoring more people under the terms of 1 or more specified, or all, existing approvals for temporary visas.

 - (ii) must be lodged by the approved professional development sponsor.
 - (b) Application by a person seeking to satisfy the criteria for the grant of a Subclass 470 (Professional Development) visa must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or
 - (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph; or
 - (iii) having the application sent by facsimile to the address specified in a Gazette Notice for this subparagraph.
 - (c) Applicant seeking to satisfy the criteria for the grant of a Subclass 470 (Professional Development) visa must be outside Australia.

- (4) Subclass:
470 (Professional Development)

1221. Contributory Parent (Temporary) (Class UT)

- (1) Form:
- (a) If the applicant is a contributory parent newborn child: Nil
 - (b) In any other case: 47PA.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
 - (i) For an applicant who:
 - (A) made a valid application for a Parent (Migrant) (Class AX) visa before the day on which this item commences; and
 - (B) withdrew that application at the same time as making the application for the Contributory Parent (Temporary) (Class UT) visa: Nil
 - (ii) For an applicant who is a contributory parent newborn child: Nil
 - (iii) In any other case: \$1 705.
 - (b) Second instalment (payable before grant of visa):
 - (i) For an applicant who:
 - (A) is a dependent child of an applicant for a Contributory Parent (Temporary) (Class UT) visa; and
 - (B) has not turned 18 at the time of application: \$1 485
 - (ii) For an applicant who is a contributory parent newborn child: Nil
 - (iii) In any other case: \$20 595.
- (3) Other:
- (a) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified in a Gazette Notice for this subparagraph; or

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- (ii) having the application delivered by a courier service to the address specified in a Gazette Notice for this subparagraph.
 - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Contributory Parent (Temporary) (Class UT) visa may be made at the same time and place as, and combined with, the application by that person.
 - (c) If the applicant has previously made a valid application for another parent visa:
 - (i) a decision to grant or to refuse to grant that visa must have been made; or
 - (ii) the application for that visa must have been withdrawn.
 - (d) Application by a contributory parent newborn child must be made by notifying Immigration, in writing, of the birth of the applicant.
- (4) Subclasses:
173 (Contributory Parent (Temporary))

1221A. Contributory Aged Parent (Temporary) (Class UU)

- (1) Form:
 - (a) If the applicant is a contributory parent newborn child: Nil
 - (b) In any other case: 47PA.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) For an applicant who:
 - (A) made a valid application for an Aged Parent (Residence) (Class BP) visa before the day on which this item commences; and
 - (B) withdrew that application at the same time as making the application for the Contributory Aged Parent (Temporary) (Class UU) visa: Nil

- (ii) For an applicant who is a contributory parent newborn child: Nil
 - (iii) In any other case: \$2 525.
 - (b) Second instalment (payable before grant of visa):
 - (i) For an applicant who:
 - (A) is a dependent child of an applicant for a Contributory Aged Parent (Temporary) (Class UU) visa; and
 - (B) has not turned 18 at the time of application: \$1 485
 - (ii) For an applicant who is a contributory parent newborn child: Nil
 - (iii) In any other case: \$20 595.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant, other than a contributory parent newborn child, must be in Australia but not in immigration clearance.
 - (c) If the applicant has previously made a valid application for another parent visa:
 - (i) a decision to grant or to refuse to grant that visa must have been made; or
 - (ii) the application for that visa must have been withdrawn.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Contributory Aged Parent (Temporary) (Class UU) visa may be made at the same time and place as, and combined with, the application by that person.
 - (e) Application by a contributory parent newborn child must be made by notifying Immigration, in writing, of the birth of the applicant.
- (4) Subclasses:
 - 884 (Contributory Aged Parent (Temporary))

1222. Student (Temporary) (Class TU)

- (1) Form:
- (a) In the case of an application by an applicant who:
 - (i) is outside Australia; and
 - (ii) is included in a class of persons specified by Gazette Notice for the purposes of this subparagraph: 157A or 157E.
 - (aa) In the case of an application by an applicant who is in Australia and:
 - (i) is included in a class of persons specified by an instrument in writing for the purposes of this subparagraph: 157A or 157A (Internet); or
 - (ii) is included in a class of persons specified by an instrument in writing for the purposes of this subparagraph: 157P or 157P (Internet).
 - (ca) In the case of an application by a person who seeks a Subclass 580 visa: 157G.
 - (d) In any other case: 157A.
 - (i) if the application is made outside Australia: 157A; or
 - (ii) if the application is made in Australia: 157A or 157A (Internet).
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
 - (i) In the case of each applicant (or a member of the family unit of each applicant) who:
 - (A) has been granted approval, under a students' training scheme approved by the Commonwealth, to study in Australia; or
 - (C) is a secondary exchange student; or
 - (D) is an AusAID student to whom subparagraph 1.04A (3) (b) (ii) applies; or
 - (E) is a member of the family unit of an AusAID student who has not, since becoming an AusAID student, applied for a visa other than an AusAID student visa within the meaning of regulation 1.04A; or

- (F) is a Defence student to whom subparagraph 1.04B (b) (ii) applies; or
 - (G) is a member of the family unit of a Defence student who has not, since becoming a Defence student, applied for a visa other than a student visa: Nil.
- (ii) In the case of an applicant who makes an application on form 157P or 157P (Internet) (other than an applicant mentioned in subparagraph (2) (a) (i)): \$70
 - (iv) In any other case: \$540
- (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) Subject to paragraph (aa), application may be made in or outside Australia, but not in immigration clearance.
 - (aa) An application made on form 157A or 157G by an applicant who is included in a class of persons specified in a Gazette Notice for this paragraph must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister; or
 - (ii) having the application delivered by a courier service to the address specified by the Minister.
- Note* An application made under paragraph (aa) is taken to have been made outside Australia — see subregulation 2.07AF (6).
- (b) Applicant must be in Australia to make an application in Australia.
 - (c) If the application is made on form 157A or 157E and the applicant seeks to satisfy the primary criteria, the application is accompanied by satisfactory evidence that:
 - (i) the applicant is enrolled in a registered full-time course of study:
 - (A) of a type that has been gazetted under regulation 1.40A; and
 - (B) the provider of which is not a suspended education provider; or

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- (ii) the applicant has been offered a place in a registered full-time course of study:
 - (A) of a type that has been gazetted under regulation 1.40A; and
 - (B) the provider of which is not a suspended education provider; or
 - (iii) if the applicant is an AusAID student who meets the requirement in subparagraph 1.04A (3) (b) (ii), a Defence student who meets the requirement in subparagraph 1.04B (b) (ii) or a secondary exchange student — the applicant is enrolled, or intends to enrol, in a full-time course of study the provider of which is not a suspended education provider; or
 - (iv) if:
 - (A) the application was made in Australia; and
 - (B) at the time of application, the applicant was the holder of a Subclass 560, 562 or 574 visa; and
 - (C) the applicant is seeking to remain in Australia during the marking of his or her postgraduate thesis —
in connection with a full-time course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a postgraduate thesis.
 - (ce) If the application (not being an Internet application) is made outside Australia, application must be made at:
 - (i) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (ii) an office of a visa application agency that is approved in writing by the Minister for the purpose of receiving applications for Student (Temporary) (Class TU) visas.
 - (cf) If the application is made in Australia, using form 157P, application must be made at:
 - (i) an office of Immigration in Australia; or

- (ii) if the educational institution at which the applicant is enrolled is approved in writing by the Minister for the purpose of receiving applications for Student (Temporary) (Class TU) visas — that educational institution; or
- (iii) if:
 - (A) the applicant holds a Subclass 560, 563, 570, 571, 572, 573, 574, 575 or 576 visa as a member of the family unit of a person who, having satisfied the primary criteria, holds a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa; and
 - (B) the educational institution at which that person is enrolled is approved in writing by the Minister for the purpose of receiving applications for Student (Temporary) (Class TU) visas;that educational institution.
- (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Student (Temporary) (Class TU) visa may be made at the same time and place as, and combined with, the application by that person.
- (e) A person claiming to be a member of the family unit of the primary applicant must be included by the primary applicant in the application or the information under subregulation 2.07AF (3) or (4), except if the applicant became such a member of the family unit after the decision to grant the Student (Temporary) (Class TU) visa to the primary applicant was made.
- (f) If the application is made on form 157G, the application must be accompanied by a form 157N.
- (g) In the case of an application to which paragraph (h) applies, the application must be accompanied by:
 - (i) evidence of an intention to reside in Australia with a person who:
 - (A) is a parent of the applicant or a person who has custody of the applicant; or

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- (B) is:
- (I) a relative of the applicant; and
 - (II) nominated by a parent of the applicant or a person who has custody of the applicant; and
 - (III) aged at least 21; or
- (ii) evidence that the education provider for the course in which the applicant is enrolled has made appropriate arrangements for the applicant's accommodation, support and general welfare for at least the minimum period of enrolment stated on the applicant's:
- (A) certificate of enrolment; or
 - (B) electronic confirmation of enrolment; or
 - (C) Acceptance Advice of Secondary Exchange Student (AASES);
- plus 7 days after the end of that period.
- (h) This paragraph applies to an application if:
- (i) the application is made in Australia; and
 - (ii) the application is made on form 157A or 157A (Internet); and
 - (iii) the applicant is under 18 years of age; and
 - (iv) the applicant is not:
 - (A) an AusAID student; or
 - (B) a Defence student.
- (4) Subclasses:
- 570 Independent ELICOS Sector
 - 571 Schools Sector
 - 572 Vocational Education and Training Sector
 - 573 Higher Education Sector
 - 574 Postgraduate Research Sector
 - 575 Non-Award Sector
 - 576 AusAID or Defence Sector
 - 580 Student Guardian

(5) In this item:

relevant visa means a visa of one of the following classes or subclasses:

- (a) Border (Temporary) (Class TA);
- (b) Business (Temporary) (Class TB);
- (c) Cultural/Social (Temporary) (Class TE);
- (d) Educational (Temporary) (Class TH);
- (e) Electronic Travel Authority (Class UD);
- (f) Expatriate (Temporary) (Class TJ);
- (g) Family Relationship (Temporary) (Class TL);
- (h) Long Stay (Visitor) (Class TN);
- (i) Medical Practitioner (Temporary) (Class UE);
- (j) Retirement (Temporary) (Class TQ);
- (k) Short Stay (Visitor) (Class TR);
- (l) Supported Dependant (Temporary) (Class TW);
- (m) Temporary Business Entry (Class UC);
- (ma) Tourist (Class TR) visa;
- (n) Working Holiday (Temporary) (Class TZ);
- (o) Subclass 303 (Emergency (Temporary Visa Applicant));
- (p) Subclass 427 (Domestic Worker (Temporary) — Executive);
- (q) Subclass 497 (Graduate — Skilled).

1223A. Temporary Business Entry (Class UC)

(1) Form:

- (a) Subject to paragraph (c), if the applicant seeks a visa that will permit the applicant to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of 3 months or less: 456.
- (b) If the applicant:
 - (i) seeks a visa that will permit the applicant to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of more than 3 months; and
 - (ii) is outside Australia at the time of application; and

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- (iii) is making the application for the visa:
- (A) in connection with a standard business sponsor who was not approved under regulation 1.20DA, or a pre-qualified business sponsor; or
 - (B) as part of a labour agreement; or
 - (C) as part of a regional headquarters agreement mentioned in regulation 1.16A: 1066 or 1066 (Internet).
- (ba) If the applicant:
- (i) seeks a visa that will permit the applicant to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of more than 3 months; and
 - (ii) is in Australia at the time of application; and
 - (iii) is making the application for the visa:
 - (A) in connection with a standard business sponsor who was not approved under regulation 1.20DA, or a pre-qualified business sponsor; or
 - (B) as part of a labour agreement; or
 - (C) as part of a regional headquarters agreement mentioned in regulation 1.16A; and
 - (iv) holds a substantive visa at the time of application for the Temporary Business Entry Class UC visa: 1066 or 1066 (Internet).
- (bb) If the applicant:
- (i) seeks a visa that will permit the applicant to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of more than 3 months; and
 - (ii) seeks to satisfy the secondary criteria for the grant of a Subclass 457 visa; and
 - (iii) is not making a combined application with the applicant seeking to satisfy the primary criteria for the grant of that visa: 1066 or 1066S (Internet).

- (bc) If:
- (i) the applicant seeks a visa that will permit the applicant to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of more than 3 months; and
 - (ii) paragraphs (b), (ba) and (bb) do not apply: 1066.

- (c) If:
- (i) a person has made an application to a Government in accordance with subparagraph 2.07AA (2) (b) (i) or (ii); and
 - (ii) that application, a copy of that application, or the information contained in that application, has been sent by the Government in accordance with paragraph 2.07AA (2) (c) to an office of Immigration that is approved in writing by the Minister for the purpose of receiving applications of that kind: Nil.

(2) Visa application charge:

- (a) First instalment (payable at the time application is made):
- (i) Subject to subparagraphs (v), (vi), (vii) and (viii), in the case of an applicant who seeks a visa that will permit the applicant to remain in Australia for up to 3 months: \$105
 - (iii) Subject to subparagraphs (v) and (vi), in the case of each applicant who seeks a visa that will permit the applicant to remain in Australia for more than 3 months: \$260
 - (v) In the case of each applicant who:
 - (A) makes an application of a kind mentioned in subparagraph (i), (ii) or (iii); and

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- (B) appears to the Minister, on the basis of the application, to be a person to whom privileges and immunities are, or are expected to be, accorded under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*; and
- (C) is expected to be recommended by the Foreign Minister for the grant of a visa: Nil
- (vi) In the case of an applicant who is:
- (A) the spouse, de facto partner or dependent child of an applicant mentioned in subparagraph (v) and who is applying for a visa that will permit him or her to remain in Australia for up to 3 months; or
- (B) applying for a visa that will permit the applicant to remain in Australia for more than 3 months, and who is a member of the family unit of an applicant mentioned in subparagraph (v): Nil
- (vii) In the case of each applicant who applies in the course of acting as a representative for a foreign government: Nil
- (viii) In the case of an applicant who is an applicant referred to in paragraph (1) (c): Nil
- (ix) In the case of an applicant who is in a class of persons specified in an instrument in writing for this subparagraph: Nil
- (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) In the case of an applicant who seeks a visa that will permit the applicant to travel to, enter and remain in Australia for a period, or periods, of 3 months or less:
- (i) the applicant must be outside Australia; and
- (ii) the application must be made outside Australia.

- (aa) Subject to paragraphs (ab), (ad), (ae), (af) and (ag), an application by an applicant who seeks a visa that will permit the applicant to travel to, enter and remain in Australia for a period, or periods, of more than 3 months may be made in or outside Australia, but not in immigration clearance.
- (ab) In the case of an applicant who:
- (i) seeks a visa that will permit the applicant to travel to, enter and remain in Australia for a period, or periods, of more than 3 months; and
 - (ii) proposes:
 - (A) to develop in Australia a business activity that will be conducted by the applicant as a principal and will be of benefit to Australia; or
 - (B) to be employed in Australia in an activity nominated by a person under paragraph 1.20G (1) (d);
- the applicant:
- (iii) must be outside Australia; and
 - (iv) may only make the application outside Australia.
- (ad) An application by an applicant who:
- (i) holds a Subclass 457 (Business (Long Stay)) visa granted on the basis that the applicant met the requirements of subclause 457.223 (7) of Schedule 2; and
 - (ii) on the day on which the application is made:
 - (A) had been conducting the business in Australia as a principal for at least 15 months; or
 - (B) if the applicant had been conducting the business in Australia as a principal for less than 15 months — had received an endorsement of the business as beneficial to a State or Territory from the government of the State or Territory;
- must be made in Australia, but not in immigration clearance.

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- (ae) An application by an applicant who:
- (i) holds a Subclass 457 (Business (Long Stay)) visa granted on the basis that the applicant met the requirements of Subdivision 457.32 of Schedule 2; and
 - (ii) is the spouse or de facto partner of a person who holds a visa of the kind mentioned in subparagraph (ad) (i); and
 - (iii) on the day on which the application is made:
 - (A) had been conducting the business in Australia as a principal for at least 15 months; or
 - (B) if the applicant had been conducting the business in Australia as a principal for less than 15 months — had received an endorsement of the business as beneficial to a State or Territory from the government of the State or Territory;

must be made in Australia, but not in immigration clearance.

- (af) In the case of an applicant who:
- (i) seeks a visa that will permit the applicant to travel to, enter and remain in Australia for a period, or periods, of more than 3 months; and
 - (ii) seeks to meet the requirements of subclause 457.223 (2), (3), (4) or (10) of Schedule 2;
- the application must be made:
- (iii) in Australia, but not in immigration clearance; or
 - (iv) as an Internet application.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (ag) In the case of an applicant who:
- (i) seeks a visa that will permit the applicant to travel to, enter and remain in Australia for a period, or periods, of more than 3 months; and

- (ii) seeks to meet the requirements of subclause 457.223 (5) of Schedule 2;
the applicant must be outside Australia and the application must be made outside Australia.
- (b) In the case of an applicant who:
- (i) seeks a visa that will permit the applicant to travel to, enter and remain in Australia for a period, or periods, of 3 months or less; and
- (ii) claims to be a spouse, de facto partner or dependent child of another such applicant;
the application may be made at the same time and place as, and combined with, the application of that other applicant.
- (c) If the applicant:
- (i) seeks a visa that will permit the applicant to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of more than 3 months; and
- (ii) claims to be a member of the family unit of a person who seeks to satisfy the primary criteria (the ***primary applicant***);
the application may be made at the same time and place as, and combined with, an application by the primary applicant or any other applicant who claims to be a member of the family unit of the primary applicant.
- (ca) An application by an applicant who:
- (i) seeks to satisfy the secondary criteria for the grant of a Subclass 457 (Business (Long Stay)) visa; and
- (ii) claims to be a member of the family unit of an applicant who seeks to satisfy, or has satisfied, the primary criteria on the basis of meeting the requirements of subclause 457.223 (2), (3), (4) or (10) of Schedule 2;
must be made:
- (iii) in Australia, but not in immigration clearance; or

- (iv) as an Internet application.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (d) If an applicant seeks to satisfy the primary criteria for the grant of a Subclass 457 (Business (Long Stay)) visa on the basis that the applicant satisfies the requirements of subclause 457.223 (4) of Schedule 2, the application must:
- (i) specify the employer by whom the applicant proposes to be employed for subclause 457.223 (4); and
 - (ii) be accompanied by evidence that the proposed employer is:
 - (A) a pre-qualified business sponsor; or
 - (B) a standard business sponsor; or
 - (C) a person who has applied for approval under regulation 1.20C as a pre-qualified business sponsor or standard business sponsor but whose application has not yet been decided.
- (e) If:
- (i) the application is made outside Australia; and
 - (ii) the applicant seeks a visa that will permit him or her to remain in Australia for a period, or periods, of 3 months or less (whether or not the visa would permit the applicant to travel to and enter Australia);
- application must be made at:
- (iii) a diplomatic, consular or migration office maintained by or on behalf of the Commonwealth outside Australia; or
 - (iv) an office of a visa application agency that is approved in writing by the Minister with whom an application for a Temporary Business Entry (Class UC) visa may be made.

(f) If the application is made in Australia, in accordance with subregulation 2.07AA (2), application must be made at an office of Immigration that is approved in writing by the Minister as an office to which an application for a Temporary Business Entry (Class UC) visa may be made.

- (4) Subclasses:
 456 (Business (Short Stay))
 457 (Business (Long Stay)).

1223B. Temporary Safe Haven (Class UJ)

- (1) Form: Nil.
(2) Visa application charge: Nil.
(3) Subclasses:
 448 (Kosovar Safe Haven (Temporary))
 449 (Humanitarian Stay (Temporary))

Note See regulation 2.07AC for how an application for a Temporary Safe Haven (Class UJ) visa is taken to have been validly made.

1223C. Temporary (Humanitarian Concern) (Class UO)

- (1) Form: Nil.
(2) Visa application charge: Nil.
(3) Subclasses:
 786 (Temporary (Humanitarian Concern))

Note See regulation 2.07AC for how an application for a Temporary (Humanitarian Concern) (Class UO) visa is taken to have been validly made.

1224. Transit (Temporary) (Class TX)

- (1) Form: 876.
(2) Visa application charge: Nil.
(3) Other:
 (a) Application must be made outside Australia.
 (b) Applicant must be outside Australia.

- (4) Subclasses:
771 (Transit)

1224A. Work and Holiday (Temporary) (Class US)

- (1) Forms:
- (a) For an applicant in a class of persons specified in an instrument in writing for this paragraph: 1208 or 1208E (Internet).
 - (b) For any other applicant: 1208.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made): \$230
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) Applicant must hold a valid passport issued by a foreign country specified in an instrument in writing for this paragraph.

Note **foreign country** is defined in paragraph 22 (1)(f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

- (aa) Subject to paragraph (ab), application using form 1208 by a person who holds a valid passport mentioned in paragraph (a) must be made at an address specified for the country of issue in an instrument in writing for this paragraph.
- (ab) Application using form 1208 by a person in a class of persons specified in an instrument in writing for this paragraph may be made in any foreign country.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (b) If the applicant does not hold a Subclass 462 (Work and Holiday) visa at the time of application, the applicant must:

- (i) be outside Australia; and
 - (ii) not have previously been in Australia as the holder of a Subclass 417 (Working Holiday) visa or a Subclass 462 (Work and Holiday) visa; and
 - (iii) unless the applicant is a member of a class of persons specified by the Minister, by an instrument in writing, for this subparagraph — provide evidence that the applicant has the support for the grant of the visa from the government of the foreign country mentioned in paragraph (a).
- (c) If the applicant holds a Subclass 462 (Work and Holiday) visa at the time of application, the applicant must:
- (i) be in Australia, but not in immigration clearance; and
 - (ii) have previously held, in Australia, not more than 2 Subclass 462 (Work and Holiday) visas; and
 - (iii) be a member of a class of persons specified by the Minister, by an instrument in writing, for this subparagraph.
- (4) Subclasses:
- 462 (Work and Holiday)

1225. Working Holiday (Temporary) (Class TZ)

- (1) Form: 1150 or 1150E.
- (2) Visa application charge (payable at the time application is made): \$230.
- (3) Application by a person made using form 1150 must be made:
 - (a) if the applicant is, or has previously been, in Australia as the holder of a working holiday visa:
 - (i) by posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this paragraph; or
 - (ii) by having the application sent by fax to the number specified by the Minister in an instrument in writing for this paragraph; or

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- (b) if the applicant is not, and has not previously been, in Australia as the holder of a working holiday visa the application is made:
- (i) if the applicant is a member of a class of persons specified by the Minister in an instrument in writing for this paragraph — in any foreign country; or
 - (ii) if the applicant is a member of a class of persons specified by the Minister in an instrument in writing for this paragraph — in the foreign country specified in the instrument in writing for that class of persons.

Note **foreign country** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

- (3A) If the applicant is not, and has not previously been, in Australia as the holder of a working holiday visa, the applicant:
- (a) is outside Australia; and
 - (b) holds a working holiday eligible passport.
- (3B) If the applicant is, or has previously been, in Australia as the holder of a working holiday visa:
- (a) the applicant must not be in immigration clearance; and
 - (b) the application must not be made in immigration clearance; and
 - (c) the application must be accompanied by a declaration by the applicant that he or she has carried out specified work in regional Australia for a total period of at least 3 months as the holder of that visa; and
 - (d) the applicant has not previously held more than 1 working holiday visa in Australia; and
 - (e) the applicant holds a working holiday eligible passport; and
 - (f) if the applicant is in Australia, the applicant must:
 - (i) hold a substantive visa; or
 - (ii) have held a substantive visa at any time in the period of 28 days immediately before making the application.

(4) Subclasses:

417 (Working Holiday)

(5) In this item:

regional Australia means a place specified by the Minister in an instrument in writing for this definition.

specified work means work of a kind specified by the Minister in an instrument in writing for this definition.

working holiday eligible passport means a valid passport held by a person who is a member of a class of persons specified in an instrument in writing under subparagraph (3) (b) (i) or (ii).

working holiday visa means a visa or entry permit of any of the following classes or kinds:

(a) a visa that:

- (i) was issued under the Migration (1989) Regulations; and
- (ii) contained an endorsement describing the visa as a working holiday visa (code T18) or a working holiday visa (code number 417);

(b) a class 417 (working holiday) visa and entry permit within the meaning of the Migration (1993) Regulations;

(c) a Working Holiday (Temporary) (Class TZ) visa;

(d) a visa that was granted:

- (i) before 19 December 1989; and
- (ii) in accordance with the law in force at the time; and
- (iii) for the same purpose as a visa or permit mentioned in paragraph (a), (b) or (c).

Note **Internet application** is defined in regulation 1.03.

1226. Skilled — Designated Area-sponsored (Provisional) (Class UZ)

(1) Form: 47ST.

(2) Visa application charge:

(a) First instalment (payable at the time application is made):

- (i) In the case of an applicant who is taken under regulation 2.08D to have applied for a Skilled —

Designated Area-sponsored (Provisional) (Class UZ) visa: Nil.

- (ii) In the case of an applicant who is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa: \$230.
- (iii) In any other case: \$2 525.
- (b) Second instalment (payable before grant of visa):
 - (i) In the case of an applicant who:
 - (A) was 18 or more at the time of application; and
 - (B) is assessed as not having functional English; and
 - (C) has held a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; and
 - (D) has not paid a second instalment for the application for that visa: \$3 510.
 - (ii) In the case of an applicant who:
 - (A) was 18 or more at the time of application; and
 - (B) is assessed as not having functional English; and
 - (C) has not previously held a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa: \$3 510.
 - (iii) In any other case: Nil.

Note Regulation 2.11 makes special provision for the visa application charge payable if the Minister has invited the applicant to apply for this visa.

- (3) Other:
 - (a) Applicant may be in or outside Australia, but not in immigration clearance.
 - (b) Application must be made by:
 - (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or

- (ii) having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.
 - (c) Applicant must not have previously held more than 1 Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.
 - (d) Applicant seeking to satisfy the primary criteria who is not the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa must be under 45.
 - (e) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa may be made at the same time and place as, and combined with, the application by that person.
 - (f) Application by a person who is not the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa must be accompanied by evidence that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
 - (g) Application must be accompanied by a sponsorship form 40 completed by the person who is the sponsor of the applicant.
 - (h) Application by a person seeking to satisfy the primary criteria must be made before 1 September 2007.
- (4) Subclasses:
496 (Skilled — Designated Area-sponsored (Provisional))

1227. Maritime Crew (Temporary) (Class ZM)

Note This class of visa relates to a member of the crew of a non-military ship. Those expressions are defined in regulation 1.03.

- (1) Form: 1273 or 1273 (Internet).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application may be made in or outside Australia.
 - (b) Applicant must be outside Australia.

- (c) Applicant is not the holder of a permanent visa.
- (d) Application must be made:
 - (i) by posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or
 - (ii) by having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph; or
 - (iii) by having the application sent by facsimile to the address specified by the Minister in an instrument in writing for this subparagraph; or
 - (iv) as an Internet application.
- (e) An applicant who seeks to satisfy the secondary criteria for the grant of the visa must claim to be the spouse, de facto partner or a dependent child of:
 - (i) the holder of a Maritime Crew (Temporary) (Class ZM) visa who has satisfied the primary criteria for the grant of the visa; or
 - (ii) an applicant who seeks to satisfy, or has satisfied, the primary criteria for the grant of the visa.

- (4) Subclasses:
 - 988 (Maritime Crew)

1227A. Superyacht Crew (Temporary) (Class UW)

Note This class of visa relates to a member of the crew of a superyacht. Those expressions are defined in regulation 1.03. Regulation 1.15G is also relevant for the purposes of the definition of *superyacht*.

- (1) Form: 1365 or 1365 (Internet).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Applicant may be in or outside Australia.
 - (b) Applicant is not the holder of a permanent visa.
 - (c) If the applicant is in Australia at the time of application, the applicant is the holder of a substantive visa other than a permanent visa.

- (d) Application must be made:
- (i) as an Internet application; or
 - (ii) by posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister in an instrument in writing for this subparagraph; or
 - (iii) by having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph; or
 - (iv) by having the application sent by fax to the number specified by the Minister in an instrument in writing for this subparagraph.

- (4) Subclasses:
488 (Superyacht Crew)

1228. Skilled (Provisional) (Class VF)

- (1) Forms: 1276 and 1276 (Internet).
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):
 - (i) In the case of an applicant seeking to satisfy the criteria for the grant of a Subclass 475 (Skilled — Regional Sponsored) visa: \$2 525
 - (ii) In the case of an applicant seeking to satisfy the criteria for the grant of a Subclass 476 (Skilled — Recognised Graduate) visa: \$230.
 - (b) Second instalment (payable before grant of visa):
 - (i) In the case of an applicant who:
 - (A) seeks to satisfy the criteria for the grant of a Subclass 475 (Skilled — Regional Sponsored) visa; and
 - (B) had turned 18 at the time of application; and
 - (C) is assessed as not having functional English: \$3 510
 - (ii) In any other case: Nil.

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- (3) Other:
- (a) Application must be made:
 - (i) as an Internet application; or
 - (ii) by posting the application (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this subparagraph; or
 - (iii) by having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (b) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 475 (Skilled — Regional Sponsored) visa:
 - (i) must be less than 45; and
 - (ii) must nominate a skilled occupation in the application.
- (c) Applicant seeking to satisfy the primary criteria for the grant of a Subclass 476 (Skilled — Recognised Graduate) visa must be less than 31.
- (d) Application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.

- (4) Subclasses:
- 475 (Skilled — Regional Sponsored)
 - 476 (Skilled — Recognised Graduate)

1229. Skilled (Provisional) (Class VC)

- (1) Forms: 1276 and 1276 (Internet).
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made):

- (i) In the case of an applicant seeking to satisfy the criteria for the grant of a Subclass 485 (Skilled — Graduate) visa: \$230
 - (ii) In the case of an applicant seeking to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa, and who is the holder of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (C) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (D) a Subclass 487 (Skilled — Regional Sponsored) visa: \$230
 - (iii) In any other case: \$2 525.
- (b) Second instalment (payable before grant of visa):
- (i) In the case of an applicant who:
 - (A) seeks to satisfy the criteria for the grant of a Subclass 487 (Skilled — Regional Sponsored) visa; and
 - (B) had turned 18 at the time of application; and
 - (C) is assessed as not having functional English; and
 - (D) has not paid a second instalment of visa application charge in relation to the application for the visa, mentioned in paragraph (a), that the applicant holds: \$3 510
 - (ii) In any other case: Nil.
- (3) Other:
- (a) Application must be made:
 - (i) as an Internet application; or
 - (ii) by posting the application (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this subparagraph; or

- (iii) by having the application delivered by a courier service to the address specified by the Minister in an instrument in writing for this subparagraph.

Note An Internet application is taken to have been made at the time, identified using Australian Eastern Standard Time or Australian Eastern Standard Time incorporating Daylight Saving Time in the Australian Capital Territory, that corresponds to the time at which the Internet application is made: see regulation 2.10C.

- (b) Applicant claiming to be a member of the family unit of a person who, having satisfied the primary criteria, holds a Skilled (Provisional) (Class VC) visa may be in or outside Australia when making his or her application, but not in immigration clearance.
 - (c) Applicant to whom paragraph (b) does not apply must be in Australia, but not in immigration clearance, when making his or her application.
 - (d) Application by a person claiming to be a member of the family unit of a person who seeks to satisfy the primary criteria may be made at the same time and place as, and combined with, an application by that person.
 - (e) The requirements of subitem (4), (5), (6), (7), (8) or (9) must be satisfied.
- (4) The following requirements must be met:
- (a) one of the following subparagraphs must be satisfied by the applicant:
 - (i) the applicant must be the holder of an eligible student visa;
 - (ii) the applicant must be the holder of a Bridging A (Class WA) visa or Bridging B (Class WB) visa that was granted on the basis of a valid application for a visa other than 1 of the following visas:
 - (A) a Subclass 570 (Independent ELICOS Sector) visa;
 - (B) a Subclass 571 (Schools Sector) visa;
 - (C) a Subclass 572 (Vocational Education and Training Sector) visa, a Subclass 573 (Higher Education Sector) visa, or a Subclass 574 (Postgraduate Research Sector) visa, that was applied for on the basis that the applicant

seeking to satisfy the primary criteria for the grant of that visa intends to undertake a course of study paid for, wholly or in part, by:

- (I) the Commonwealth or the government of a State or Territory; or
- (II) the government of a foreign country; or
- (III) a multilateral agency;

and for which a condition of payment by that body for the course is that the student will leave Australia on the completion of the course;

- (D) a Subclass 572 (Vocational Education and Training Sector) visa, a Subclass 573 (Higher Education Sector) visa, or a Subclass 574 (Postgraduate Research Sector) visa that was applied for on the basis that the applicant seeking to satisfy the primary criteria for the grant of that visa intends to undertake a course of study or training under a scholarship scheme or training program approved by:

- (I) the AusAID Minister; or
- (II) the Defence Minister;

and for which a condition of that scheme or program is that the student will leave Australia on completion of the course;

- (E) a Subclass 575 (Non-Award Sector) visa;
- (F) a Subclass 576 (AusAID or Defence Sector) visa;

and must also have held an eligible student visa at any time during the period of 6 months ending immediately before the day on which the application is made;

-
- (iii) the applicant must:
- (A) be the holder of a substantive visa other than a visa mentioned in sub-subparagraphs (ii) (A) to (F); and
 - (B) have held an eligible student visa at any time during the period of 6 months ending immediately before the day on which the application for the Skilled (Provisional) (Class VC) visa is made;
- (iv) the applicant must have been taken, under sections 368C, 368D and 379C of the Act, to have been notified that the Migration Review Tribunal has set aside and substituted the Minister's decision not to revoke the cancellation of the applicant's eligible student visa not more than 28 days before the day on which the application is made;
- (b) the applicant seeking to satisfy the primary criteria for the grant of the visa:
- (i) must be less than 45; and
 - (ii) must nominate a skilled occupation in the application for which at least 50 points are available as specified by the Minister in an instrument in writing for this subparagraph.
- (5) The following requirements must be met:
- (a) the applicant must be:
- (i) the holder of a Subclass 476 (Skilled — Recognised Graduate) visa; or
 - (ii) the holder of a Subclass 485 (Skilled — Graduate) visa;
- (b) the applicant seeking to satisfy the primary criteria for the grant of the visa must:
- (i) have been granted the visa mentioned in paragraph (a) on the basis of satisfying the primary criteria for the grant of that visa; and
 - (ii) nominate a skilled occupation in the application for which at least 50 points are available as specified by the Minister in an instrument in writing for this subparagraph.

- (6) The following requirements must be met:
- (a) each applicant must be the holder of a Subclass 471 (Trade Skills Training) visa;
 - (b) the applicant seeking to satisfy the primary criteria for the grant of the visa:
 - (i) must have been the holder, for a total of at least 2 years before the day on which the application was made, of the Subclass 471 (Trade Skills Training) visa mentioned in paragraph (a) that was granted on the basis of satisfying the primary criteria for the grant of that visa; and
 - (ii) must be less than 45; and
 - (iii) must nominate a skilled occupation in the application for which at least 50 points are available as specified by the Minister in an instrument in writing for this subparagraph.
- (7) The following requirements must be met:
- (a) the applicant must be:
 - (i) the holder of a Subclass 417 (Working Holiday) visa; or
 - (ii) the holder of a Subclass 442 (Occupational Trainee) visa that was granted on the basis of satisfying the primary criteria for that visa;
 - (b) the applicant seeking to satisfy the primary criteria for the grant of the visa:
 - (i) must be less than 45; and
 - (ii) must nominate a skilled occupation in the application for which at least 50 points are available as specified by the Minister in an instrument in writing for this subparagraph.
- (8) The following requirements must be met:
- (a) the applicant must be the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or

-
- (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa;
- and must not have previously held more than 1 of any of those visas;
- (b) the applicant seeking to satisfy the primary criteria for the grant of the visa must have been, for a total of at least 2 years before the day on which the application was made, the holder of 1 of the following visas:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa;
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa;
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa;that was granted on the basis of satisfying the primary criteria for the grant of that visa, or of being the spouse or de facto partner of the applicant who satisfied the primary criteria for the grant of the visa.
- (9) The applicant must claim to be a member of the family unit of an applicant who holds a Skilled (Provisional) (Class VC) visa granted on the basis of satisfying the primary criteria for the grant of the visa.
 - (10) Subclasses:
 - 485 (Skilled — Graduate)
 - 487 (Skilled — Regional Sponsored)

Part 3 Bridging visas

1301. Bridging A (Class WA)

- (1) Form: 47SP, 47SP (Internet), 47CH, 47PA, 47PT, 47OF, 47SK, 47SK (Internet), 47ES, 47BT, 47BU, 47SV, 147, 157A, 157A (Internet), 852, 866, 918, 1001, 1002, 1003, 1005, 1066, 1066 (Internet), 1066S (Internet), 1096, 1182, 1150, 1150E (Internet), 1208, 1276, 1276 (Internet), 1365 or 1365 (Internet).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Either:
 - (i) the applicant has made a valid application for a substantive visa that has not been finally determined; or
 - (ii) application has been made, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application, and the judicial review proceedings (including proceedings on appeal, if any) have not been completed.
 - (d) Applicant must:
 - (i) hold a substantive visa; or
 - (ii) hold a Bridging A (Class WA) or Bridging B (Class WB) visa and have held a substantive visa when he or she made the substantive visa application; or
 - (iii) have held a substantive visa when he or she made the substantive visa application referred to in paragraph (c); or
 - (iv) have previously held a Bridging A (Class WA) visa granted under regulation 2.21A in respect of the substantive visa referred to in paragraph (c).

- (e) If the last substantive visa held by the applicant was cancelled:
 - (i) the decision to cancel that visa has been set aside by a review authority; or
 - (ii) if that visa was cancelled under section 137J of the Act:
 - (A) the cancellation has been revoked; or
 - (B) a decision not to revoke the cancellation has been set aside by a review authority.
 - (f) Applicant is not in immigration detention or criminal detention.
 - (g) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging A (Class WA) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
010 (Bridging A)

Note 1 The Minister must grant a Bridging A (Class WA) visa in the circumstances set out in regulation 2.21A.

Note 2 Regulation 2.07A sets out the circumstances in which an application for a substantive visa on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

1302. Bridging B (Class WB)

- (1) Form: 1005 or 1006.
- (2) Visa application charge:
 - (a) First instalment (payable at the time application is made): 90
 - (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.

- (ba) Applicant must be a person who is immigration cleared.
 - (bb) Applicant must not be:
 - (i) the holder of a Subclass 785 (Temporary Protection) visa; or
 - (ii) a person whose last substantive visa was a Subclass 785 (Temporary Protection) visa.
 - (c) Applicant is not in immigration detention or criminal detention.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging B (Class WB) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
 020 (Bridging B)

1303. Bridging C (Class WC) [see Note 4]

- (1) Form: 47PT, 47SP, 47SP (Internet), 47CH, 47PA, 47OF, 47SK, 47ES, 47BU, 47SV, 147, 157A, 852, 866, 918, 1002, 1003, 1005, 1066, 1096, 1150, 1150E (Internet), 1276 or 1276 (Internet).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (c) Either:
 - (i) the applicant has made a valid application for a substantive visa that has not been finally determined; or
 - (ii) both of the following apply:
 - (A) application has been made, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application, and the judicial proceedings

(including proceedings on appeal, if any) have not been completed;

(B) the applicant held a Bridging C (Class WC) visa granted on the basis of the applicant's substantive visa application.

(ca) Applicant must be:

- (i) a person who is immigration cleared; or
- (ii) an eligible non-citizen referred to in subregulation 2.20 (6).

(d) Applicant:

- (i) was not the holder of a substantive visa when he or she made the substantive visa application referred to in paragraph (c); and
 - (ii) does not hold a Bridging E (Class WE) visa; and
 - (iii) has not held a Bridging E (Class WE) visa since he or she last held a substantive visa.
- (e) Applicant is not in immigration detention or in criminal detention and has not escaped from either immigration detention or criminal detention.
- (f) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging C (Class WC) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

030 (Bridging C)

Note Regulation 2.07A sets out the circumstances in which an application for a substantive visa made on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

1304. Bridging D (Class WD)

- (1) Form: 1007.
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.

- (b) Applicant must be in Australia but not in immigration clearance.
 - (ba) Applicant must be:
 - (i) a person who is immigration cleared; or
 - (ii) an eligible non-citizen referred to in subregulation 2.20 (6).
 - (c) Applicant is not in immigration detention or criminal detention.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Bridging D (Class WD) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
- 040 (Bridging (Prospective Applicant))
 - 041 (Bridging (Non-applicant))

1305. Bridging E (Class WE) [see Note 4]

- (1) Form: 47PT, 47SP, 47SP (Internet), 47CH, 47PA, 47OF, 47SK, 47ES, 47BU, 47SV, 147, 157A, 852, 866, 918, 1002, 1003, 1005, 1008, 1066, 1096, 1150, 1150E (Internet), 1276 or 1276 (Internet).
- (2) Visa application charge: Nil.
- (3) Other:
 - (a) Application must be made in Australia but not in immigration clearance.
 - (b) Applicant must be in Australia but not in immigration clearance.
 - (ba) Applicant must be an eligible non-citizen within the meaning of section 72 of the Act.
 - (c) If applicant is in immigration detention, an officer appointed under subregulation 2.10A (2) as a detention review officer for the State or Territory in which the applicant is detained has been informed of the application.
 - (d) Application by a person claiming to be a member of the family unit of a person who is an applicant for a

Bridging E (Class WE) visa may be made at the same time and place as, and combined with, the application by that person.

- (e) If the applicant has applied at the same time and on the same form for a substantive visa, the application for the substantive visa is valid.

(4) Subclasses:

050 (Bridging (General))

051 (Bridging (Protection Visa Applicant))

Note Regulation 2.07A sets out the circumstances in which an application for a substantive visa made on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

1306. Bridging F (Class WF)

- (1) Form: 1239.
- (2) Visa application charge: Nil.
- (3) Other:
- (a) Application must be made in Australia but not in immigration clearance.
- (b) Applicant must be in Australia but not in immigration clearance.
- (c) One of the following subparagraphs applies in relation to the applicant:
- (i) the applicant does not hold a visa and has not held a Bridging F (Class WF) visa since he or she last entered Australia;
- (ii) the applicant:
- (A) does not hold a visa; and
- (B) has held one Bridging F (Class WF) visa since last entering Australia; and
- (C) has not held another visa since holding that visa;
- (iii) the applicant holds a Bridging F (Class WF) visa, which is the first Bridging F (Class WF) visa held since he or she last entered Australia.

(d) Either:

- (i) an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, that the applicant has been identified as a suspected victim of human trafficking; or
- (ii) the applicant is a member of the immediate family of a person who an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, has been identified as a suspected victim of human trafficking.

Note **Member of the immediate family** is defined in regulation 1.12AA.

- (e) An officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, that suitable arrangements have been made for the care, safety and welfare of the applicant for the proposed period of the visa.
- (f) If the applicant is in immigration detention, the authorised officer to whom notice was given under subregulation 2.10B (2) has been informed of the lodgement of the application.
- (g) Application by a person claiming to be a member of the immediate family of a person who is an applicant for a Bridging F (Class WF) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

060 (Bridging F)

Note As an alternative to item 1306, an application for a Bridging F (Class WF) visa will be taken to have been validly made by a non-citizen if the application is made in accordance with subregulation 2.20B (2).

1307. Bridging R (Class WR)

- (1) Application must be taken to have been made in accordance with subregulation 2.20A (2).
- (2) Visa application charge: Nil.

- (3) Subclasses:
070 (Bridging (Removal Pending))

Part 4 Protection, Refugee and Humanitarian visas

1401. Protection (Class XA)

- (1) Form: 866.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
- (i) In the case of each applicant who is in immigration detention and has not been immigration cleared: Nil
- (ii) In any other case: \$30
- (b) Second instalment (payable before grant of visa): Nil.
- (3) Other:
- (a) Application must be made in Australia.
- (b) Applicant must be in Australia.
- (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Protection (Class XA) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
866 (Protection)

1402. Refugee and Humanitarian (Class XB)

- (1) Form: 842.
- (2) Visa application charge: Nil.
- (3) Other:
- (a) Application by a person included in a class of persons specified in a Gazette Notice for this paragraph must be made by:

- (i) posting the application (with the correct pre-paid postage) to the post office box address specified by the Minister; or
- (ii) having the application delivered by a courier service to the address specified by the Minister.

Note An application made under paragraph (a) is taken to have been made outside Australia — see regulation 2.07AM.

- (aa) Application by a person not included in a class of persons specified for paragraph (a) must be made outside Australia.
- (b) Applicant must be outside Australia.
- (c) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Refugee and Humanitarian (Class XB) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

- 200 (Refugee)
- 201 (In-country Special Humanitarian)
- 202 (Global Special Humanitarian)
- 203 (Emergency Rescue)
- 204 (Woman at Risk)



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

This compilation was prepared on 1 July 2009
taking into account amendments up to SLI 2009 No. 144

The text of any of those amendments not in force
on that date is appended in the Notes section

**[Note: Regulation 2.12A ceases to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains the Notes and Tables A and B
Each volume has its own Table of Contents

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Schedule 2 Provisions with respect to the grant of Subclasses of visas

Subclass 010 Bridging A

010.1 Interpretation

010.111 In this Part:

review authority includes the Administrative Appeals Tribunal.

Note *Compelling need to work* and *criminal detention* are defined in regulation 1.03. For *eligible non-citizen* see regulation 2.20.

010.2 Primary criteria

Note All applicants must satisfy the primary criteria.

010.21 Criteria to be satisfied at the time of application

- 010.211
- (1) The applicant meets the requirements of subclause (2), (3), (4), (5) or (6).
 - (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
 - (b) that application has not been finally determined; and
 - (c) he or she held a substantive visa at the time that application was made; and
 - (d) either:
 - (i) he or she has applied for a bridging visa in respect of that application; or
 - (ii) a bridging visa can be granted in respect of that application under regulation 2.21B.

-
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant:
 - (i) has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
 - (ii) held a substantive visa when he or she made the application; and
 - (aa) that application was refused; and
 - (b) either:
 - (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application; or
 - (ii) the applicant:
 - (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and
 - (B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and
 - (c) at the time of that application, he or she held a Bridging A (Class WA) or Bridging B (Class WB) visa; and
 - (d) the judicial review proceedings (including proceedings on appeal, if any) are not completed.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant:
 - (i) holds a Bridging A (Class WA) or Bridging B (Class WB) visa that:
 - (A) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted if the applicant was in Australia; and

- (B) is subject to conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112 or 8547; and
- (ii) held a substantive visa when he or she made the substantive visa application; and
- (b) he or she has not applied for a Protection (Class AZ) or Protection (Class XA) visa; and
- (c) the Minister is satisfied that the applicant has a compelling need to work.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant has made a valid application for:
- (i) a Spouse (Migrant) (Class BC) visa; or
 - (ii) an Interdependency (Migrant) (Class BI) visa; or
 - (iii) a Partner (Migrant) (Class BC) visa; or
 - (iv) an Aged Parent (Residence) (Class BP) visa; or
 - (v) a Contributory Aged Parent (Residence) (Class DG) visa; or
 - (vi) a Contributory Aged Parent (Temporary) (Class UU) visa; and
- (b) the application has not been finally determined; and
- (c) the applicant has applied for a bridging visa in respect of that application; and
- (d) the applicant holds, or has previously held, a Bridging A (Class WA) visa granted under regulation 2.21A in respect of the visa referred to in paragraph (a).
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant has made a valid application for:
- (i) a Spouse (Migrant) (Class BC) visa; or
 - (ii) an Interdependency (Migrant) (Class BI) visa; or
 - (iii) a Partner (Migrant) (Class BC) visa; or
 - (iv) an Aged Parent (Residence) (Class BP) visa; or
 - (v) a Contributory Aged Parent (Residence) (Class DG) visa; or
 - (vi) a Contributory Aged Parent (Temporary) (Class UU) visa; and

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- (b) that application was refused; and
 - (c) either:
 - (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application as the holder of a Bridging A (Class WA) or Bridging B (Class WB) visa; or
 - (ii) the applicant:
 - (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and
 - (B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and
 - (d) the judicial review proceedings (including proceedings on appeal, if any) are not completed; and
 - (e) the applicant holds, or has previously held, a Bridging A (Class WA) visa granted under regulation 2.21A in respect of the visa referred to in paragraph (a).

010.22 Criteria to be satisfied at the time of decision

010.221 The applicant continues to satisfy the criterion set out in clause 010.211.

010.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

010.4 Circumstances applicable to grant

010.411 The applicant must be in Australia, but not in immigration clearance.

Note 1 The applicant must be an eligible non-citizen at the time of grant: see Act, s 73.

Note 2 The Minister must grant a Bridging A (Class WA) visa in the circumstances set out in regulation 2.21A.

010.5 When visa is in effect

010.511 In the case of a visa granted to a non-citizen who has applied for a substantive visa — bridging visa:

- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
- (b) permitting the holder to remain in Australia until:
 - (i) if the Minister's decision in respect of the substantive visa application is to grant a visa — the grant of the visa; or
 - (ii) if the Minister's decision in respect of that application is to refuse to grant a visa — 28 days after the holder is notified of that refusal; or
 - (iii) if the substantive visa application is refused and the holder applies for merits review of that refusal — 28 days after notification of the decision of:
 - (A) the review authority; or
 - (B) if the holder has the right to apply to another review authority for merits review of the decision of that review authority and so applies — 28 days after notification of the decision of that other review authority; or
 - (iv) the grant of another bridging visa to the holder in respect of the same substantive visa application; or
 - (v) if the holder withdraws his or her application for a substantive visa or an application to a review authority — 28 days after that withdrawal; or
 - (vi) if the substantive visa (if any) held by the holder is cancelled — that cancellation; or
 - (vii) if the holder is notified by Immigration that the substantive visa application is invalid — 28 days after the notification; or

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- (viii) if a review authority remits the application for the substantive visa to the Minister for reconsideration — permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph.
- 010.513 In the case of a visa granted to a non-citizen on the basis of judicial review of a decision — bridging visa:
- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
 - (b) permitting the holder to remain in Australia until:
 - (i) subject to paragraph (c), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or
 - (ii) the grant of another bridging visa to the holder in respect of the same application for judicial review; or
 - (iii) if the holder withdraws his or her application for judicial review — 28 days after that withdrawal; or
 - (iv) if the substantive visa (if any) held by the holder is cancelled — that cancellation; and
 - (c) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration — permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 010.511 (b).
- 010.514 In the case of a visa granted to a non-citizen on the basis that the non-citizen is a member of the family unit of a party to judicial review proceedings — bridging visa:
- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
 - (b) permitting the holder to remain in Australia until the expiry of the bridging visa held by the party to the judicial review proceedings.

010.6 Conditions

- 010.611 (1) In the case of a visa granted to a non-citizen who:
- (a) satisfies the criterion in subclause 010.211 (4); or
 - (b) is an applicant for a Protection (Class AZ) or Protection (Class XA) visa who:
 - (i) is not a person described in subclause (2); or
 - (ii) satisfies the criterion in subclause 010.211 (2); or
 - (c) is a person in a class of persons specified by the Minister by an instrument in writing for this paragraph;
- Nil.
- (2) In the case of a visa granted to a non-citizen who:
- (a) applies for a Protection (Class AZ) or Protection (Class XA) visa; and
 - (b) satisfies the criterion in subclause 010.211 (3);
- condition 8101, if that condition applied to the last visa held by the holder.
- (3) In the case of a visa granted under regulation 2.21A to a person mentioned in subregulation 2.21A (1): Nil.
- (3A) In the case of a visa granted to a non-citizen who meets the requirements of subclause 010.211 (2) or (3) on the basis of a valid application for:
- (a) a Graduate — Skilled (Temporary) (Class UQ) visa; or
 - (d) a Skilled — Independent Regional (Provisional) (Class UX) visa in relation to which the applicant met the requirements for subitem 1218A (5) of Schedule 1; or
 - (e) a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229 (4) of Schedule 1;
- 8501.
- (3B) In the case of a visa granted to a non-citizen who meets the requirements of subclause 010.211 (2) or (3) on the basis of a valid application for:
- (a) a Skilled — Independent Overseas Student (Class DD) visa; or

- (b) a Skilled — Australian-sponsored Overseas Student (Class DE) visa; or
- (c) a Skilled (Residence) (Class VB) visa in relation to which the applicant met the requirements for subitem 1136 (4), (5) or (6) of Schedule 1;

Nil.

(4) In any other case: whichever of conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8114, 8539, 8547 and 8549 applies to:

- (a) the visa held by the holder:
 - (i) at the time of application; or
 - (ii) if the bridging visa is granted under regulation 2.21A to a person mentioned in subregulation 2.21A (2) or (3), or under regulation 2.21B — at the time of grant; or
- (b) if the visa mentioned in subparagraph (a) (i) has ceased, or no visa is held by the holder at the time of grant — the last Bridging A (Class WA) or Bridging B (Class WB) visa held by the holder.

010.7 Way of giving evidence

010.711 No evidence need be given.

010.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 020 Bridging B

Interpretation

020.111 In this Part:

review authority includes the Administrative Appeals Tribunal.

Note *Compelling need to work* and *criminal detention* are defined in regulation 1.03. For *eligible non-citizen* see regulation 2.20.

020.2 Primary criteria

Note All applicants must satisfy the primary criteria.

020.21 Criteria to be satisfied at the time of application

020.211 The applicant is the holder of:

- (a) a Bridging A (Class WA) visa; or
- (b) a Bridging B (Class WB) visa.

020.212 (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if:

- (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
- (b) that application has not been finally determined; and
- (c) the applicant wishes to leave and re-enter Australia during the processing of that application; and
- (d) the Minister is satisfied that the applicant's reasons for wishing to do so are substantial.

(3) An applicant meets the requirements of this subclause if:

- (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and

(b) that application was refused; and

(c) either:

- (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application, and the judicial review proceedings (including proceedings on appeal, if any) have not been completed; or

(ii) the applicant:

- (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and

-
- (B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and
- (d) the applicant wishes to leave and re-enter Australia during the judicial proceedings; and
- (e) the Minister is satisfied that the applicant's reasons for wishing to do so are substantial.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant has made a valid application for a Spouse (Migrant) (Class BC) visa, an Interdependency (Migrant) (Class BI) visa or a Partner (Migrant) (Class BC) visa; and
- (b) the application has not been finally determined; and
- (c) the applicant wishes to leave and re-enter Australia during the processing of that application; and
- (d) the Minister is satisfied that the applicant's reasons for wishing to do so are substantial.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant has made a valid application for a Spouse (Migrant) (Class BC) visa, an Interdependency (Migrant) (Class BI) visa or a Partner (Migrant) (Class BC) visa; and
- (b) that application was refused; and
- (c) either:
- (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application; or
- (ii) the applicant:
- (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and
- (B) made a substantive visa application that was combined with the substantive visa

application mentioned in subparagraph (i);
and

- (d) the judicial review proceedings (including proceedings on appeal, if any) are not completed; and
- (e) the applicant wishes to leave and re-enter Australia during those proceedings; and
- (f) the Minister is satisfied that the applicant's reasons for wishing to do so are substantial.

020.213 The applicant's return to Australia would not be contrary to the public interest.

020.22 Criteria to be satisfied at the time of decision

020.221 The applicant continues to satisfy the criteria set out in clauses 020.211 and 020.212.

020.222 If the applicant meets the requirements of subclause 020.212 (2) or (3) on the basis of a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa, the applicant wishes to leave and re-enter Australia because:

- (a) a close relative of the applicant is seriously ill, or has recently died, overseas; or
- (b) the applicant's Australian employer requires the applicant to travel overseas in the course of the applicant's employment.

Note *close relative* is defined in regulation 1.03.

020.223 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

020.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

020.4 Circumstances applicable to grant

020.411 The applicant must be in Australia, but not in immigration clearance.

Note The applicant must be an eligible non-citizen at the time of grant: see the Act, s 73.

020.5 When visa is in effect

020.511 In the case of a visa granted to a non-citizen who has applied for a substantive visa — bridging visa:

- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
- (b) permitting the holder to remain in Australia until:
 - (i) if the Minister's decision in respect of the substantive visa application is to grant a visa — the grant of the visa; or
 - (ii) if the Minister's decision in respect of that application is to refuse to grant a visa — 28 days after the holder is notified of that refusal; or
 - (iii) if the substantive visa application is refused and the holder applies for merits review of that refusal — 28 days after notification of the decision of:
 - (A) the review authority; or
 - (B) if the holder has the right to apply to another review authority for merits review of the decision of that review authority and so applies — 28 days after notification of the decision of that other review authority; or
 - (iv) if the holder withdraws his or her application for a substantive visa or an application to a review authority — 28 days after that withdrawal; or
 - (v) the grant of another bridging visa to the holder in respect of the same application for a substantive visa; or

- (vi) if the substantive visa (if any) held by the holder is cancelled — that cancellation; or
 - (vii) if the holder is notified by Immigration that the substantive visa application is invalid — 28 days after the notification; or
 - (viii) if a review authority remits the application for the substantive visa to the Minister for reconsideration — permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph; and
 - (c) permitting the holder to travel to and enter Australia until the time set by paragraph (b), unless the Minister has specified an earlier time for the purpose.
- 020.512 In the case of a visa granted to a non-citizen on the basis of judicial review of a decision — bridging visa:
- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
 - (b) permitting the holder to remain in Australia until:
 - (i) subject to paragraph (ba), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or
 - (ii) if the holder withdraws his or her application for judicial review — 28 days after that withdrawal; or
 - (iii) the grant of another bridging visa in respect of the same application for judicial review; or
 - (iv) if the substantive visa (if any) held by the holder is cancelled — that cancellation; and
 - (ba) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration — permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 020.511 (b); and
 - (c) permitting the holder to travel to and enter Australia until the time set by paragraph (b), unless the Minister has specified an earlier time for the purpose.

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- 020.513 In the case of a visa granted to a non-citizen on the basis that the non-citizen is a member of the family unit of a party to judicial review proceedings — bridging visa:
- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
 - (b) permitting the holder to remain in Australia until the expiry of the bridging visa held by the party to the judicial review proceedings.

020.6 Conditions

- (1) In the case of a visa granted to a non-citizen who is either:
 - (a) an applicant for a Protection (Class AZ) or Protection (Class XA) visa who:
 - (i) is not a person described in subclause (2) or (2A); or
 - (ii) satisfies the criterion in subclause 020.212 (2); or
 - (b) a person in a class of persons specified by the Minister by an instrument in writing for this paragraph;

Nil.
- (2) In the case of a visa granted to a non-citizen who:
 - (a) applies for a Protection (Class AZ) or Protection (Class XA) visa; and
 - (b) satisfies the criterion in subclause 020.212 (3);

condition 8101, if that condition applied to the last visa held by the holder.
- (2A) In the case of a visa granted to a person who is an applicant for a Subclass 462 (Work and Holiday) visa, condition 8540.
- (3) In the case of a visa granted to a person who meets the requirements of subclause 020.212 (2) or (3) on the basis of a valid application for:

- (a) a Graduate — Skilled (Temporary) (Class UQ) visa; or
- (b) a Skilled — Independent Regional (Provisional) (Class UX) visa in relation to which the applicant met the requirements for subitem 1218A (5) of Schedule 1; or
- (c) a Skilled (Provisional) (Class VC) visa in relation to which the applicant met the requirements for subitem 1229 (4) of Schedule 1;

8501.

(4) In the case of a visa granted to a non-citizen who meets the requirements of subclause 020.212 (2) or (3) on the basis of a valid application for:

- (a) a Skilled — Independent Overseas Student (Class DD) visa; or
- (b) a Skilled — Australian-sponsored Overseas Student (Class DE) visa; or
- (c) a Skilled (Residence) (Class VB) visa in relation to which the applicant met the requirements for subitem 1136 (4), (5) or (6) of Schedule 1;

Nil.

(5) In any other case — whichever of conditions 8101, 8102, 8103, 8104, 8105, 8107, 8108, 8111, 8112, 8114, 8539, 8547 and 8549 applies to the bridging visa held by the holder at the time of application.

020.7 Way of giving evidence

020.711 No evidence need be given.

020.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 030 Bridging C

030.1 Interpretation

030.111 In this Part:

review authority includes the Administrative Appeals Tribunal.

Note *Criminal detention* and *compelling need to work* are defined in regulation 1.03. For *eligible non-citizen* see regulation 2.20.

030.2 Primary criteria

Note All applicants must satisfy the primary criteria.

030.21 Criteria to be satisfied at time of application

030.211 The applicant does not hold a Bridging E (Class WE) visa and has not held such a visa since last holding a substantive visa.

030.212 (1) The applicant meets the requirements of subclause (2), (2A), (3) or (5).

(2) An applicant meets the requirements of this subclause if:

- (a) the applicant is not the holder of a substantive visa; and
- (b) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
- (ba) either:
 - (i) the bridging visa can be granted in respect of that application under regulation 2.21B; or
 - (ii) that application was made at the same time, and on the same form, as the bridging visa application; and
- (c) that application has not been finally determined.

(2A) An applicant meets the requirements of this subclause if:

- (a) he or she is not the holder of a substantive visa; and

- (b) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
 - (c) that application has not been finally determined; and
 - (d) he or she has previously been granted a Bridging C (Class WC) visa in respect of that application.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant holds a Bridging C (Class WC) visa that:
 - (i) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted to an applicant who was in Australia; and
 - (ii) is subject to condition 8101; and
 - (b) the Minister is satisfied that the applicant has a compelling need to work.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
 - (aa) that application was refused; and
 - (b) either:
 - (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application; or
 - (ii) the applicant:
 - (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and
 - (B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i); and
 - (c) at the time of that application, he or she held a Bridging C (Class WC) visa; and

- (d) the judicial review proceedings (including proceedings on appeal, if any) are not completed.

030.22 Criteria to be satisfied at the time of decision

- 030.221 The applicant continues to satisfy the criteria in clauses 030.211 to 030.212.

030.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

030.4 Circumstances applicable to grant

- 030.411 The applicant must be in Australia, but not in immigration clearance.

Note The applicant must be an eligible non-citizen at the time of grant: see the Act, s 73.

030.5 When visa is in effect

- 030.511 In the case of a visa granted to a non-citizen who has applied for a substantive visa — bridging visa:

- (a) coming into effect:
- (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
- (b) permitting the holder to remain in Australia until:
- (i) if the Minister's decision in respect of the substantive visa application is to grant a visa — the grant of the visa; or
 - (ii) if the Minister's decision in respect of that application is to refuse to grant a visa — 28 days after the holder is notified of that refusal; or
 - (iii) if the substantive visa application is refused and the holder applies for merits review of that refusal — 28 days after notification of the decision of:
 - (A) the review authority; or

- (B) if the holder has the right to apply to another review authority for merits review of the decision of that review authority and so applies — 28 days after notification of the decision of that other review authority; or
 - (iv) the grant of another bridging visa to the holder in respect of the same application for a substantive visa; or
 - (v) if the holder withdraws his or her application for a substantive visa or an application to a review authority — 28 days after that withdrawal; or
 - (vi) if the holder is notified by Immigration that the substantive visa application is invalid — 28 days after the notification; or
 - (vii) if a review authority remits the application for the substantive visa to the Minister for reconsideration — permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph; or
 - (viii) if the substantive visa (if any) held by the holder is cancelled — that cancellation.
- 030.512 In the case of a visa granted to a non-citizen on the basis of judicial review of a decision — bridging visa:
- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
 - (b) permitting the holder to remain in Australia until:
 - (i) subject to paragraph (c), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or
 - (ii) if the holder withdraws his or her application for judicial review — 28 days after that withdrawal; or
 - (iii) the grant of another bridging visa to the holder in respect of the same application for judicial review; or
 - (iv) if the substantive visa (if any) held by the holder is cancelled — that cancellation; and

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- (c) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration — permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 030.511 (b).
- 030.513 In the case of a visa granted to a non-citizen on the basis that the non-citizen is a member of the family unit of a party to judicial review proceedings — bridging visa:
- (a) coming into effect:
 - (i) on grant; or
 - (ii) when the substantive visa (if any) held by the holder ceases; and
 - (b) permitting the holder to remain in Australia until the expiry of the bridging visa held by the party to the judicial review proceedings.

030.6 Conditions

- 030.611 In the case of a visa granted to an applicant who meets the requirements of subclause 030.212 (3): Nil.
- 030.612 In the case of a visa granted to a non-citizen who:
- (a) applies for a Protection (Class AZ) or Protection (Class XA) visa; and
 - (b) meets the requirements of subclause 030.212 (5);
condition 8101 if that condition applied to the last visa held by the holder.
- 030.613 In any other case: condition 8101.

030.7 Way of giving evidence

- 030.711 No evidence need be given.
- 030.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 040 Bridging (Prospective Applicant)

040.1 Interpretation

Note **Criminal detention** is defined in regulation 1.03. For **eligible non-citizen** see regulation 2.20. No interpretation provisions specific to this Part.

040.2 Primary criteria

Note All applicants must satisfy the primary criteria.

040.21 Criteria to be satisfied at time of application

Note In circumstances set out in regulation 2.22, a non-citizen is taken under that regulation to have applied for a Bridging D (Class WD) visa.

040.211 The applicant is:

- (a) an unlawful non-citizen; or
- (b) the holder of a visa that will cease within the next 3 working days after the day of application.

040.213 The Minister is satisfied that the applicant:

- (a) has attempted to make, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia and is unable to do so; and
- (b) will, within 5 working days, be able to make, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia.

040.214 The applicant has not previously been granted 2 bridging visas of Subclass 040 since he or she last held a substantive visa.

040.22 Criteria to be satisfied at time of decision

040.221 The applicant continues to satisfy the criteria set out in subdivision 040.21.

040.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

040.4 Circumstances applicable to grant

040.411 The applicant must be in Australia but not in immigration clearance.

Note The applicant must be an eligible non-citizen at the time of grant: see the Act, s 73.

040.51 When visa is in effect

040.511 Bridging visa coming into effect:

- (a) on grant; or
- (b) when the substantive visa (if any) held by the holder ceases;

and remaining in effect for 5 working days after date of grant.

040.6 Conditions

040.611 Condition 8101.

040.7 Way of giving evidence

040.711 No evidence is to be given.

Subclass 041 Bridging (Non-applicant)

041.1 Interpretation

Note *Criminal detention* is defined in regulation 1.03. For *eligible non-citizen* see regulation 2.20. No interpretation provisions specific to this Part.

041.2 Primary criteria

Note All applicants must satisfy the primary criteria.

041.21 Criteria to be satisfied at time of application

041.211 The applicant is an unlawful non-citizen.

041.212 The applicant is unable, or does not want, to apply for a substantive visa.

041.213 An officer who is an authorised officer for the purposes of clause 050.222 is not available to interview the applicant.

041.22 Criteria to be satisfied at time of decision

041.221 The applicant continues to satisfy the criteria in Subdivision 041.21.

041.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

041.4 Circumstances applicable to grant

041.411 The applicant must be in Australia, but not in immigration clearance.

Note The applicant must be an eligible non-citizen at the time of grant: see the Act, s 73.

041.51 When visa is in effect

041.511 Bridging visa coming into effect upon grant and remaining in effect until:

- (a) the end of the fifth working day after the date of grant;
or
- (b) if the applicant is granted a Subclass 050 (Bridging (General)) visa before the end of that day — the date of grant of the Subclass 050 (Bridging (General)) visa.

041.6 Conditions

041.611 Conditions 8101 and 8401.

041.7 Way of giving evidence

041.711 No evidence is to be given.

Subclass 050 Bridging (General)

050.1 Interpretation

050.111 In this Part:

review authority includes the Administrative Appeals Tribunal.

Note *Compelling need to work* and *criminal detention* are defined in regulation 1.03. For *eligible non-citizen* see regulation 2.20.

050.2 Primary criteria

Note All applicants must satisfy the primary criteria.

050.21 Criteria to be satisfied at time of application

050.211 (1) The applicant is:

- (a) an unlawful non-citizen; or
- (b) the holder of a Bridging E (Class WE) visa; or
- (c) the holder of a Subclass 041 (Bridging (Non-applicant)) visa.

(2) The applicant is not an eligible non-citizen of the kind set out in subregulation 2.20 (7), (8), (9), (10) or (11).

050.212 (1) The applicant meets the requirements of subclause (2), (3), (3A), (4), (4AAA), (4AA), (4AB), (5), (5A), (6), (6AA), (6A), (7), (8) or (9).

(2) An applicant meets the requirements of this subclause if the Minister is satisfied that the applicant is making, or is the subject of, acceptable arrangements to depart Australia.

(3) An applicant meets the requirements of this subclause if:

- (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia and that application has not been finally determined; or

- (b) the Minister is satisfied that the applicant will apply, in Australia, within a period allowed by the Minister for the purpose, for a substantive visa of a kind that can be granted if the applicant is in Australia.
- (3A) An applicant meets the requirements of this subclause if:
 - (a) the applicant has made, in Australia, a valid application for a substantive visa of a kind that can be granted if the applicant is in Australia; and
 - (b) either:
 - (i) the applicant has applied for judicial review of a decision to refuse to grant the visa and the judicial proceedings (including any proceedings on appeal) have not been completed; or
 - (ii) the Minister has applied for judicial review of a decision in relation to a refusal to grant the applicant's substantive visa, and the judicial review proceedings (including any proceedings on appeal) have not been completed.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant has applied for judicial review of a decision in relation to a substantive visa, other than a decision to refuse to grant a visa; or
 - (aa) the Minister has applied for judicial review of a decision in relation to the applicant's substantive visa application, other than a decision relating to a refusal to grant the substantive visa; or
 - (b) the applicant has applied for merits review of a decision to cancel a visa; or
 - (ba) the applicant has applied under section 137K of the Act for revocation of the cancellation of a visa; or
 - (bb) the applicant has applied for merits review of a decision under section 137L of the Act not to revoke the cancellation of a visa; or
 - (c) the Minister is satisfied that the applicant will make an application of a kind referred to in paragraph (b), (ba) or (bb); or

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- (d) the applicant has applied for judicial review of the validity of a law that affects:
- (i) the applicant's eligibility to apply for a substantive visa; or
 - (ii) the applicant's entitlement to be granted or to continue to hold a substantive visa.

(4AAA) An applicant meets the requirements of this subclause if the applicant has applied for:

- (a) a declaration from a court that the Act does not apply to the applicant; or
- (b) judicial review or merits review of a decision made in relation to the applicant under the *Australian Citizenship Act 1948* or the *Australian Citizenship Act 2007*;

and the proceedings for the declaration or review have not been completed.

(4AA) An applicant meets the requirements of this subclause if:

- (a) the applicant is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in:
 - (i) paragraph (3A) (b); or
 - (ii) paragraph (4) (a); or
 - (iii) paragraph (4) (aa); or
 - (iv) paragraph (4) (d); and
- (b) the person whose substantive visa application is the subject of the judicial review proceedings is not a party to a representative proceeding; and
- (c) the applicant made a substantive visa application that was combined with the substantive visa application mentioned in:
 - (i) paragraph (3A) (a); or
 - (ii) subclause (4).

(4AB) An applicant meets the requirements of this subclause if the applicant is:

- (a) a member of the immediate family of a person who meets the requirements of subclause (4AAA); or
- (b) a brother or sister who has not turned 18, of a person who:
 - (i) meets the requirements of subclause (4AAA); and
 - (ii) has not turned 18.

Note Regulation 1.12AA defines *member of the immediate family*.

(4A) For the purposes of subclauses (3A), (4) and (4AAA), the applicant is taken to have applied for judicial review if the applicant:

- (a) is described or identified, in an application or document filed for the purposes of section 33H of the *Federal Court of Australia Act 1976*, as a group member to whom a representative proceeding relates; or
- (b) is a person on whose behalf or for whose benefit a person sues under Order 16 Rule 12 of the *High Court Rules*.

(5) An applicant meets the requirements of this subclause if:

- (a) he or she held a visa that was cancelled under subsection 140 (1) or (3) of the Act (which deals with cancellation because of the cancellation of a visa held by another person); and
- (b) either:
 - (i) the other person whose visa was cancelled has applied for review of the decision to cancel his or her visa; or
 - (ii) the Minister is satisfied that that other person will make an application of that kind.

(5A) An applicant meets the requirements of this subclause if:

- (a) the applicant held a visa that was cancelled under subsection 140 (1), (2) or (3) of the Act because another person's visa was cancelled under section 137J of the Act; and

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- (b) one of the following applies in relation to the person whose visa was cancelled under section 137J of the Act:
- (i) he or she has applied under section 137K of the Act for revocation of the cancellation of the visa;
 - (ii) he or she has applied for merits review of a decision under section 137L of the Act not to revoke the cancellation of the visa;
 - (iii) the Minister is satisfied that he or she will make an application of a kind mentioned in subparagraph (i) or (ii).

(5B) An applicant meets the requirements of this subclause if the applicant:

- (a) is a person to whom section 48A of the Act applies; and
- (b) has made a request to the Minister to determine under section 48B of the Act that section 48A of the Act does not apply to prevent an application for a protection visa by the applicant; and
- (c) has not previously sought, or been the subject of a request by another person for:
 - (i) a determination under section 48B of the Act; or
 - (ii) the exercise of the Minister's power under section 345, 351, 391, 417 or 454 of the Act.

(6) An applicant meets the requirements of this subclause if:

- (a) the applicant is the subject of:
 - (i) a decision in relation to an application made in Australia for a visa; or
 - (ii) a decision to cancel a visa; and
- (b) in relation to the decision mentioned in paragraph (a), the applicant:
 - (i) is the subject of a decision for which the Minister has the power to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and
 - (ii) has made a request to the Minister to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and

- (c) the applicant has not previously sought, or been the subject of a request by another person for:
 - (i) the exercise of the Minister's power under section 345, 351, 391, 417 or 454 of the Act; or
 - (ii) a determination under section 48B of the Act.

(6AA) An applicant meets the requirements of this subclause if the Minister has decided, under section 345, 351, 391, 417 or 454 of the Act, to substitute a more favourable decision for the decision of a review authority but the applicant cannot, for the time being, be granted a substantive visa because of a determination under section 85 of the Act.

(6A) An applicant meets the requirements of this subclause if:

- (a) the applicant holds a Bridging E (Class WE) visa granted on the basis of the applicant meeting the requirements of subclause (6AA); and
- (b) the Minister has decided, under section 345, 351, 391, 417 or 454 of the Act, to substitute a more favourable decision for the decision of a review authority but the applicant cannot, for the time being, be granted a substantive visa because of a determination under section 85 of the Act; and
- (c) the Minister is satisfied that the applicant has a compelling need to work.

(6B) An applicant meets the requirements of this subclause if:

- (a) the applicant holds, or has held, a Bridging E (Class WE) visa granted before 1 July 2009 on the basis of the applicant meeting the requirements of subclause (6A); and
- (b) the applicant is the subject of a decision for which the Minister has the power to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and

- (c) before 1 July 2009, the applicant made a request to the Minister to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; and
 - (d) the Minister has not yet made a decision to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act.
- (7) An applicant meets the requirements of this subclause if he or she:
- (a) is in criminal detention; and
 - (b) if he or she has been sentenced to imprisonment or periodic detention, has actually served a period of imprisonment; and
 - (c) no criminal justice stay certificate or criminal justice stay warrant about the non-citizen is in force.
- (8) An applicant meets the requirements of this subclause if:
- (a) the applicant holds a Bridging E (Class WE) visa that:
 - (i) was granted as a result of a valid application, made in Australia, for a substantive visa of a kind that could be granted if the applicant was in Australia; and
 - (ii) is subject to condition 8101; and
 - (b) the Minister is satisfied that the applicant has a compelling need to work; and
 - (c) in the case of an applicant who was an applicant for a Protection (Class AZ) visa in the period from 1 July 1997 to the end of 19 October 1999, or for a Protection (Class XA) visa on or after 20 October 1999 — either:
 - (i) the reasons for the delay in making the application for a protection visa are acceptable to the Minister; or
 - (ii) the applicant is in a class of persons specified by the Minister by instrument in writing for this subparagraph.

- (9) An applicant meets the requirements of this subclause if:
 - (a) the applicant has made a valid application for a Spouse (Migrant) (Class BC) visa, an Interdependency (Migrant) (Class BI) visa or a Partner (Migrant) (Class BC) visa; and
 - (b) that application was refused; and
 - (c) either:
 - (i) the applicant, or the Minister, has applied, within statutory time limits, for judicial review of a decision in relation to the applicant's substantive visa application; or
 - (ii) the applicant:
 - (A) is a member of the family unit of a person whose substantive visa application is the subject of the judicial review proceedings mentioned in subparagraph (i); and
 - (B) made a substantive visa application that was combined with the substantive visa application mentioned in subparagraph (i);and the applicant or family unit member does not satisfy the criterion in paragraph 010.211 (6) (c) for the grant of a Bridging A (Class WA) visa; and
 - (d) the judicial review proceedings (including proceedings on appeal, if any) are not completed.

050.22 Criteria to be satisfied at time of decision

- 050.221 The applicant continues to satisfy the criteria set out in clauses 050.211 and 050.212.
- 050.222 (1) Unless subclause (2), (3) or (4) applies, the applicant has been interviewed by an officer who is authorised by the Secretary for the purposes of this clause.
 - (2) This subclause applies if:
 - (a) the applicant is not in immigration detention; and
 - (b) the applicant has made a valid application for a substantive visa; and

- (c) the applicant holds a Bridging E (Class WE) visa; and
 - (d) the applicant is not seeking to be granted a further Bridging E (Class WE) visa that is subject to conditions other than those that apply to the Bridging E (Class WE) visa that the applicant currently holds.
- (3) This subclause applies if:
- (a) an officer who is authorised by the Secretary for the purposes of this clause was not available to interview the applicant:
 - (i) at the time of application; or
 - (ii) if the bridging visa could be granted under regulation 2.21B, at the time of decision; and
 - (b) the applicant is not in immigration detention; and
 - (c) the applicant has made a valid application for a substantive visa; and
 - (d) the applicant has previously held, but does not currently hold, a Bridging E (Class WE) visa.

Note For subclauses (2) and (3) — in certain circumstances, a Bridging E (Class WE) visa may also be taken to have been granted without application to a non-citizen who is in immigration detention. See the Act, s 73. In addition the Minister may grant a Bridging E (Class WE) visa to non-citizens who are in criminal detention or are unwilling or unable to make a valid application: see r 2.25.

- (4) This subclause applies if the applicant is a person:
- (a) to whom subclause 050.212 (4AAA) applies; or
 - (b) to whom subclause 050.212 (4AB) continues to apply.

050.223 The Minister is satisfied that, if a bridging visa is granted to the applicant, the applicant will abide by the conditions (if any) imposed on it.

050.224 If an authorised officer has required a security for compliance with any conditions that the officer has indicated to the applicant will be imposed on the visa if it is granted, the security has been lodged.

050.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

050.4 Circumstances applicable to grant

050.411 The applicant must be in Australia but not in immigration clearance.

Note The applicant must be an eligible non-citizen at the time of grant: see the Act, s 73.

050.5 When visa is in effect

050.511 In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) who has applied for a substantive visa — bridging visa:

- (a) coming into effect on grant; and
- (b) permitting the holder to remain in Australia until:
 - (i) if the Minister's decision in respect of the substantive visa application is to grant a visa — the grant of the visa; or
 - (ii) if the Minister's decision in respect of that application is to refuse to grant a visa — 28 days after the holder is notified of that refusal; or
 - (iii) if the substantive visa application is refused and the holder applies for merits review of that refusal — 28 days after notification of the decision of:
 - (A) the review authority; or
 - (B) if the holder has the right to apply to another review authority for merits review of the decision of that review authority and so applies — that other review authority; or
 - (iv) if the holder withdraws his or her application for a substantive visa or an application to a review authority — 28 days after that withdrawal; or
 - (v) the grant of a further bridging visa to the holder in respect of his or her substantive visa application; or
 - (vi) if the holder is notified by Immigration that the substantive visa application is invalid — 28 days after the notification; or

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- (vii) if a review authority remits the application for the substantive visa to the Minister for reconsideration — permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this paragraph.
- 050.511A In the case of a visa granted to a non-citizen on the basis that the non-citizen is a member of the family unit of a party to judicial review proceedings — bridging visa:
- (a) coming into effect on grant; and
 - (b) permitting the holder to remain in Australia until the bridging visa held by the party to the judicial review proceedings ceases to be in effect.
- 050.511B In the case of a visa granted to a non-citizen on the basis that the non-citizen is a person who has applied for a declaration mentioned in paragraph 050.212 (4AAA) (a) — bridging visa:
- (a) coming into effect on grant; and
 - (b) permitting the holder to remain in Australia until 28 days after the proceedings for the declaration are completed.
- 050.511C In the case of a visa granted to a non-citizen on the basis that the non-citizen has applied for judicial review of a decision under the *Australian Citizenship Act 1948* or the *Australian Citizenship Act 2007*, mentioned in paragraph 050.212 (4AAA) (b) — bridging visa:
- (a) coming into effect on grant; and
 - (b) permitting the holder to remain in Australia until 28 days after the latest of the following:
 - (i) the day the judicial review proceedings are completed;
 - (ii) if the court remits the matter to the Minister or a review authority for reconsideration — the day the non-citizen is notified of the decision of the Minister or review authority;
 - (iii) if the non-citizen withdraws his or her application for judicial review — the day the application is withdrawn;

- (iv) if the non-citizen is taken to have applied for judicial review under subclause 050.212 (4A), and either withdraws from of or is struck out of the representative proceedings for judicial review — the day the non-citizen withdraws or is struck out.

050.511D In the case of a visa granted to a non-citizen on the basis that the non-citizen has applied for merits review of a decision under the *Australian Citizenship Act 1948* or the *Australian Citizenship Act 2007*, mentioned in paragraph 050.212 (4AAA) (b) — bridging visa:

- (a) coming into effect on grant; and
- (b) permitting the holder to remain in Australia until 28 days after the latest of the following:
 - (i) the day the non-citizen is notified of the merits review decision;
 - (ii) if a review authority remits the matter to the Minister for reconsideration — the day the non-citizen is notified of the Minister’s decision;
 - (iii) if the non-citizen withdraws his or her application for merits review — the day the application is withdrawn.

Note Merits review of certain decisions made under the *Australian Citizenship Act 1948* or the *Australian Citizenship Act 2007* is available under the *Administrative Appeals Tribunal Act 1975* (the AAT Act). Regulation 18A of the *Administrative Appeals Tribunal Regulations 1976* provides for service of documents under the AAT Act for notification of decisions and other matters.

050.511E In the case of a visa granted to a non-citizen on the basis that the non-citizen is a person to whom subclause 050.212 (4AB) applies — bridging visa:

- (a) coming into effect on grant; and
- (b) permitting the holder to remain in Australia until the bridging visa held by the person who meets the requirements of subclause 050.212 (4AAA) ceases to be in effect.

050.512 In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) to whom paragraph 050.212 (3A) (b), paragraph 050.212 (4) (a) or (d) or subclause 050.212 (9) applies — bridging visa:

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- (a) coming into effect on grant; and
 - (b) permitting the holder to remain in Australia until:
 - (i) if another bridging visa is granted to the holder in respect of his or her judicial review application — the grant of that bridging visa; or
 - (ii) subject to paragraph (c), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or
 - (iii) if the holder withdraws his or her application for judicial review — 28 days after that withdrawal; or
 - (iv) if the holder opts out of, or is struck out of, the representative proceeding for judicial review — 28 days after so opting out or being struck out; and
 - (c) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration — permitting the holder to remain in Australia in accordance with the relevant provision of paragraph 050.511 (b), clause 050.513 or clause 050.513B.
- 050.513 In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) who has applied for merits review of a decision to cancel a visa — visa coming into effect on grant permitting the holder to remain in Australia until:
- (a) 28 days after notification of the review decision; or
 - (b) if another bridging visa is granted to the holder in respect of his or her merits review application — the grant of that bridging visa; or
 - (c) if the holder withdraws his or her application for merits review — 28 days after that withdrawal.
- 050.513A In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) who has applied under section 137K of the Act for revocation of the cancellation of a visa — bridging visa:
- (a) coming into effect on grant; and
 - (b) permitting the holder to stay in Australia until:
 - (i) 7 working days after the holder is notified of the decision on the revocation application; or

- (ii) if another bridging visa is granted to the holder in respect of his or her revocation application — the grant of that bridging visa; or
 - (iii) if the holder withdraws his or her revocation application — 7 working days after that withdrawal; and
 - (c) if the decision on the revocation application is not to revoke the cancellation and the holder applies for merits review of that decision — permitting the holder to remain in Australia in accordance with the relevant paragraph of clause 050.513B.
- 050.513B In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) who has applied for merits review of a decision under section 137L of the Act not to revoke the cancellation of a visa — bridging visa coming into effect on grant permitting the holder to stay in Australia until:
- (a) 28 days after the holder is notified of the review decision; or
 - (b) if another bridging visa is granted to the holder in respect of his or her review application — the grant of that bridging visa; or
 - (c) if the holder withdraws his or her application for merits review — 28 days after that withdrawal.
- 050.514 In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) to whom subsection 140 (1) or (3) of the Act (which deal with cancellation as a result of cancellation of a visa held by another non-citizen) applies, if the other person whose visa was cancelled has applied for review of that cancellation decision — visa coming into effect on grant permitting the holder to remain in Australia until:
- (a) 28 days after notification of the review decision; or
 - (b) if another bridging visa is granted to the holder in respect of that merits review application — the grant of that bridging visa; or
 - (c) if the other person whose visa was cancelled withdraws his or her application for merits review — 28 days after that withdrawal.

050.514AA In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) to whom subsection 140 (1), (2) or (3) of the Act applies, if the person whose visa was cancelled under section 137J of the Act has applied under section 137K of the Act for revocation of the cancellation — bridging visa:

- (a) coming into effect on grant; and
- (b) permitting the holder to stay in Australia until:
 - (i) 7 working days after the person whose visa was cancelled under section 137J of the Act is notified of the decision on the revocation application; or
 - (ii) if another bridging visa is granted to the holder in respect of the revocation application — the grant of that bridging visa; or
 - (iii) if the person whose visa was cancelled under section 137J of the Act withdraws his or her revocation application — 7 working days after that withdrawal; and
- (c) if the decision on the revocation application is not to revoke the cancellation and the person whose visa was cancelled applies for merits review of that decision — permitting the holder to remain in Australia in accordance with the relevant paragraph of clause 050.514AB.

050.514AB In the case of a visa granted to a non-citizen (other than a non-citizen to whom subclause 050.222 (3) applies) to whom subsection 140 (1), (2) or (3) of the Act applies, if the person whose visa was cancelled under section 137J of the Act has applied for merits review of a decision under section 137L of the Act not to revoke the cancellation — bridging visa coming into effect on grant permitting the holder to stay in Australia until:

- (a) 28 days after the person whose visa was cancelled under section 137J of the Act is notified of the review decision; or
- (b) if another bridging visa is granted to the holder in respect of the review application — the grant of that bridging visa; or

- (c) if the person whose visa was cancelled under section 137J of the Act withdraws his or her application for merits review — 28 days after that withdrawal.
- 050.514A In the case of a visa granted to a non-citizen to whom subclause 050.222 (3) applies — bridging visa:
- (a) coming into effect on grant; and
 - (b) permitting the holder to remain in Australia for 5 working days from date of grant.
- 050.515 (1) In the case of a visa granted, or taken to have been granted, to a non-citizen who is in criminal detention — visa coming into effect on grant and ceasing on:
- (a) the non-citizen's unconditional release from criminal detention; or
 - (b) the non-citizen's release on bail; or
 - (c) if the non-citizen is in prison:
 - (i) the non-citizen's completing a sentence of imprisonment; or
 - (ii) subject to subclause (2), the non-citizen's release on parole; or
 - (iv) the non-citizen's escaping from prison; or
 - (ca) subject to subclause (2), in the case of a non-citizen who is subject to an order for periodic detention — the completion of the period of periodic detention imposed by that order; or
 - (d) the signing of a deportation order against the non-citizen; or
 - (e) the grant of another visa to the holder; or
 - (f) if the non-citizen is subject to an order for periodic detention — the non-citizen's breaching a condition of that order.
- (2) Subparagraph (1) (c) (ii) and paragraph (1) (ca) apply only in the case of a non-citizen who has actually served a part of a term of imprisonment.
- 050.516 In the case of a visa that is taken to have been granted by operation of section 75 of the Act (which deals with applications for bridging visas which the Minister does not

decide within a short period) — visa coming into effect on grant permitting the applicant to remain in Australia for:

- (a) 5 working days from date of grant; or
- (b) if the Minister is satisfied, within 5 days from the date of grant, that the visa holder has made acceptable arrangements to depart Australia within 14 days from the date of grant — 14 days from the date of grant.

050.517 In any other case — visa coming into effect on grant and ceasing on a date specified by the Minister for the purpose.

050.6 Conditions

050.611 In the case of a visa granted to a non-citizen who:

- (a) either:
 - (i) applied for a substantive visa at the same time and on the same form as he or she applied for the bridging visa; or
 - (ii) applied for a substantive visa in respect of which the bridging visa is granted under regulation 2.21B; and
- (b) is not in immigration detention; and
- (c) held a Bridging E (Class WE) visa at the time when he or she made the application for the substantive visa;

whichever of conditions 8101, 8104, 8201, 8207, 8401, 8402, 8505, 8506 and 8548 apply to that bridging visa.

050.611B In the case of a visa granted to an unlawful non-citizen to whom subclause 050.222 (3) applies:

- (a) condition 8401 must be imposed; and
- (b) any 1 or more of conditions 8101, 8104, 8201, 8207, 8505, 8506 and 8548 may be imposed.

050.612 In the case of a visa that is taken to have been granted by operation of section 75 of the Act — conditions 8101, 8201, 8402, 8506, 8509 and 8548.

050.612A (1) This clause applies to a visa that is granted to an applicant (whether or not the applicant is an applicant to whom another clause in this Division would otherwise apply) who:

- (a) meets the requirements of 1 or more of the following:
 - (i) subparagraph 050.212 (3A) (b) (i);
 - (ii) subparagraph 050.212 (3A) (b) (ii);
 - (iii) paragraph 050.212 (4) (a);
 - (iv) paragraph 050.212 (4) (aa);
 - (v) paragraph 050.212 (4) (d);
 - (vi) subclause 050.212 (4AA);
 - (vii) subclause 050.212 (6AA);
 - (viii) subclause 050.212 (9); and
- (b) does not meet the requirements of subclause 050.212 (5B), (6) or (6A).

(2) Condition 8101 must be imposed.

(3) Any 1 or more of conditions 8201, 8207, 8401, 8403, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.612B In the case of a visa granted to an applicant who meets the requirements of subclause 050.212 (4AAA) or (4AB): Nil.

050.613 In the case of a visa granted to an applicant (whether or not the applicant is an applicant to whom another clause in this Division would otherwise apply) who meets the requirements of subclause 050.212 (6A) or (8) — any 1 or more of conditions 8201, 8207, 8401, 8403, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.613A (1) In the case of a visa granted to an applicant (whether or not the applicant is an applicant to which any other clause in this Division applies) who:

- (a) applies for:
 - (i) a Protection (Class AZ) visa in the period from 1 July 1997 to the end of 19 October 1999; or
 - (ii) a Protection (Class XA) visa on or after 20 October 1999; or
- (b) is not in a class of persons specified by the Minister by instrument in writing for this paragraph;

Condition 8101.

(2) If the applicant is an applicant to whom subclause (1) applies, any 1 or more of conditions 8201, 8207, 8401, 8403, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.614 In the case of a visa granted to an applicant (whether or not the applicant is an applicant to whom another clause in this Division would otherwise apply) who:

- (a) is an applicant for a Protection (Class AZ) visa in the period from 1 July 1997 to the end of 19 October 1999, or for a Protection (Class XA) visa on or after 20 October 1999; and
- (b) meets the requirements of subclause 050.212 (3A), (4), (4AA) or (4A);

whichever of conditions 8101, 8104, 8201, 8207, 8401, 8402, 8403, 8505, 8506, 8507, 8508, 8509, 8510, 8511, 8512 and 8548 apply to the last visa held by the holder.

050.615 (1) In the case of a visa granted to an applicant (whether or not the applicant is an applicant to whom another clause in this Division would otherwise apply) who:

- (a) meets the requirements of subclause 050.212 (5B) or (6); and
- (b) was not an unlawful non-citizen after the application for a substantive visa was finally determined up until the time of the request for the Minister:
 - (i) to substitute a more favourable decision under section 345, 351, 391, 417 or 454 of the Act; or
 - (ii) to make a determination under section 48B of the Act;

condition 8101, if that condition applied to the last visa held by the holder.

(2) Any 1 or more of conditions 8201, 8207, 8401, 8403, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.616 In the case of a visa granted to an applicant (whether or not the applicant is an applicant to whom another clause in this Division would otherwise apply) who meets the requirements

of subclause 050.212 (6B) — whichever of conditions 8101, 8104, 8201, 8207, 8401, 8402, 8403, 8505, 8506, 8507, 8508, 8509, 8510, 8511, 8512 and 8548 applied to the last Bridging E (Class WE) visa held by the holder.

050.617 In any other case — any 1 or more of conditions 8101, 8104, 8201, 8207, 8401, 8402, 8403, 8505, 8506, 8507, 8508, 8510, 8511, 8512 and 8548 may be imposed.

050.7 Way of giving evidence

050.711 No evidence need be given.

050.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 051 Bridging (Protection Visa Applicant)

051.1 Interpretation

051.111 In this Part:

review authority includes the Administrative Appeals Tribunal.

Note 1 *Compelling need to work* and *criminal detention* are defined in regulation 1.03.

Note 2 For *eligible non-citizen* see regulation 2.20.

Note 3 For the meaning of *finally determined*, see subsection 5 (9) of the Act.

Note 4 A Subclass 051 visa may also be granted without application.

051.2 Primary criteria

Note All applicants must satisfy the primary criteria.

051.21 Criteria to be satisfied at time of application

051.211 The applicant is an eligible non-citizen referred to in subregulation 2.20 (7), (8), (9), (10) or (11).

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- 051.212 The applicant, or a person acting on behalf of the applicant, has signed an undertaking acceptable to the Minister that:
- (a) if the applicant withdraws the application for a protection visa, the applicant will depart Australia, or present himself or herself to Immigration for removal, within 28 days after the applicant withdraws the application; and
 - (b) if the application for a protection visa is finally determined and refused, the applicant will depart Australia, or present himself or herself to Immigration for removal, within 28 days after the latest of the following:
 - (i) the applicant is notified that the protection visa application has been finally determined and refused;
 - (ii) the applicant withdraws an application for judicial review of the decision to refuse the protection visa application (the *visa decision*);
 - (iii) proceedings for judicial review of the visa decision are completed, and the outcome is that the visa decision is maintained;
 - (iv) the applicant withdraws an appeal against the outcome of judicial review of the visa decision;
 - (v) proceedings on an appeal against the outcome of judicial review of the visa decision are completed, and the outcome is that the visa decision is maintained.
- 051.213 The Minister is satisfied that the applicant satisfies:
- (a) the public interest criteria 4001, 4002 and 4003; and
 - (b) the health criteria in clauses 866.223, 866.224, 866.224A and 866.224B.

051.22 Criteria to be satisfied at time of decision

- 051.221 The applicant continues to satisfy the criteria in clauses 051.211, 051.212 and 051.213.

051.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

051.4 Circumstances applicable to grant

051.411 The applicant must be in Australia but not in immigration clearance.

051.5 When visa is in effect

051.511 In the case of a visa granted to a non-citizen who has applied for a protection visa — bridging visa coming into effect on grant, permitting the holder to remain in Australia until:

- (a) either:
 - (i) if the Minister's decision in respect of the protection visa application is to grant a visa — the grant of the protection visa; or
 - (ii) if the Minister's decision in respect of that application is to refuse to grant a visa — 28 days after the holder is notified of that refusal; or
- (b) if that application is refused and the holder applies for merits review of that decision — 28 days after notification of the decision of the final review authority appealed to; or
- (c) the grant of a further bridging visa to the holder in respect of his or her protection visa application; or
- (d) if the holder withdraws the application for the protection visa or for review — 28 days after that withdrawal; or
- (e) if the holder is notified by Immigration that the protection visa application is invalid — 28 days after the notification; or
- (f) if a review authority remits the application for the protection visa to the Minister for reconsideration — permitting the holder of the bridging visa to remain in Australia in accordance with the relevant provision of this clause.

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- 051.512 In the case of a visa granted to a non-citizen on the basis of judicial review of a decision to refuse a protection visa application — bridging visa coming into effect on grant and permitting the applicant to remain in Australia until:
- (a) if another bridging visa is granted to the holder in respect of his or her application for judicial review — the grant of that bridging visa; or
 - (b) subject to paragraph (d), 28 days after the judicial review proceedings (including proceedings on appeal, if any) are completed; or
 - (c) if the applicant withdraws the application for judicial review — 28 days after that withdrawal; or
 - (d) if a court remits a matter to which the judicial review proceedings relate to a review authority, or to the Minister, for reconsideration — permitting the holder to remain in Australia in accordance with the relevant provision of clause 051.511.
- 051.513 In the case of a visa that is taken to have been granted by operation of section 75 of the Act — bridging visa coming into effect on grant and permitting the applicant to remain in Australia until:
- (a) either:
 - (i) if the Minister’s decision in respect of the protection visa application is to grant a visa — the grant of the visa; or
 - (ii) if the Minister’s decision in respect of that application is to refuse to grant a visa — 28 days after the holder is notified of that refusal; or
 - (b) if the protection visa application is refused and the holder applies for merits review of that decision — 28 days after notification of the decision of the final review authority appealed to; or
 - (c) the grant of a further bridging visa to the holder in respect of his or her protection visa application; or
 - (d) if the holder withdraws the application for the protection visa or for review — 28 days after that withdrawal.

051.6 Conditions

051.611 In the case of a visa that is taken to have been granted by operation of section 75 of the Act — conditions 8101, 8201, 8402, 8506 and 8513.

051.611A (1) In the case of a visa granted to an applicant (whether or not the applicant is an applicant to which any other clause in this Division applies) who:

(a) applies for:

(i) a Protection (Class AZ) visa in the period from 1 July 1997 to the end of 19 October 1999; or

(ii) a Protection (Class XA) visa on or after 20 October 1999; and

(b) has been in Australia for a period of 45 days or more, or for periods totalling 45 days or more, (not including any day for part of which the applicant was not in Australia) in the 12 months immediately before the date of that application; and

(c) is not within a class of persons specified by Gazette Notice for the purposes of this paragraph:

Condition 8101.

(2) If the applicant is an applicant to whom subclause (1) and clause 051.611 applies — conditions 8101, 8201, 8402, 8506 and 8513.

(3) In addition, if the applicant is an applicant to whom subclause (1) applies, any 1 or more of conditions 8104, 8201, 8401, 8403, 8505, 8506, 8507, 8508, 8510, 8511 and 8512 may be imposed.

051.612 In any other case — any 1 or more of conditions 8101, 8104, 8201, 8401, 8403, 8505, 8506, 8507, 8508, 8510, 8511 and 8512 may be imposed.

051.7 Way of giving evidence

051.711 No evidence need be given.

051.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 060 Bridging F

060.1 Interpretation

Note No interpretation provisions specific to this Part.

060.2 Primary criteria

060.21 [No criteria to be satisfied at time of application]

060.22 Criteria to be satisfied at time of decision

060.221 The Minister is satisfied that the applicant has been identified as a suspected victim of human trafficking.

060.222 The Minister is satisfied that suitable arrangements have been made for the care, safety and welfare of the applicant in Australia for the proposed period of the visa.

060.223 The Minister is satisfied that, if the bridging visa is granted, the applicant will abide by the conditions imposed on it.

060.3 Secondary criteria

060.31 [No criteria to be satisfied at time of application]

060.32 Criteria to be satisfied at time of decision

060.321 The applicant is a member of the immediate family of, and made a combined application with, a person in relation to whom the primary criteria in Subdivision 060.22 are satisfied.

060.322 The Minister is satisfied that the applicant continues to be a member of the immediate family of a person who has been identified as a suspected victim of human trafficking.

060.323 The Minister is satisfied that suitable arrangements have been made for the care, safety and welfare of the applicant in Australia for the proposed period of the visa.

060.324 The Minister is satisfied that, if the bridging visa is granted, the applicant will abide by the conditions imposed on it.

060.4 Circumstances applicable to grant

- 060.411 (1) An applicant:
- (a) to whom subregulation 2.20 (14) applies; and
 - (b) who applied for the visa using the application process described in subregulation 2.20B (2);
- must be outside Australia when the visa is granted.
- (2) An applicant:
- (a) to whom subregulation 2.20 (15) applies; and
 - (b) who applied for the visa using the application process described in subregulation 2.20B (2);
- must be in Australia, but not in immigration clearance, when the visa is granted.
- (3) An applicant:
- (a) to whom subregulation 2.20 (15) would apply if he or she had been immigration cleared; and
 - (b) who applied for the visa using the application process described in subregulation 2.20B (2);
- must be in Australia when the visa is granted.
- (4) In any other case, an applicant must be in Australia when the visa is granted.

060.5 When visa is in effect

- 060.511 (1) For a person to whom subregulation 2.20 (14) applies, and who made an application in accordance with subregulation 2.20B (2) — bridging visa:
- (a) coming into effect on grant; and
 - (b) permitting the holder to travel to, and enter, Australia on 1 occasion until a date specified by the Minister; and
 - (c) permitting the holder to remain in Australia until a date specified by the Minister.
- (2) For a person to whom subregulation 2.20 (15) applies, or to whom subregulation 2.20 (15) would apply if he or she had been immigration cleared, and who made an application in accordance with subregulation 2.20B (2) — bridging visa:

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- (a) coming into effect on grant; and
 - (b) permitting the holder to travel to, and enter, Australia on 1 occasion until a date specified by the Minister; and
 - (c) permitting the holder to remain in Australia until the earliest of the following:
 - (i) a date specified by the Minister;
 - (ii) the date on which the holder is granted a new criminal justice stay visa in accordance with Division 4 of Part 2 of the Act;
 - (iii) the date on which a criminal justice certificate issued to the holder in accordance with that Division is cancelled.
- (3) In any other case — bridging visa:
- (a) coming into effect on grant; and
 - (b) permitting the holder to remain in Australia until the earliest of the following:
 - (i) a date specified by the Minister;
 - (ii) the end of 45 days after the date of the grant;
 - (iii) if:
 - (A) an officer of the Australian Federal Police, or of a police force of a State or Territory, has told Immigration, in writing, under paragraph 1306 (3) (d) of Schedule 1 that the holder has been identified as a suspected victim of human trafficking; and
 - (B) an officer of that police force tells Immigration, in writing, that the holder is no longer identified as a suspected victim;when the Minister gives a written notice to the holder, by one of the methods specified in section 494B of the Act, that the holder is no longer identified as a suspected victim;
 - (iv) if:
 - (A) a holder is a member of the immediate family of a person; and
 - (B) an officer of the Australian Federal Police, or of a police force of a State or Territory, has

told Immigration, in writing, under paragraph 1306 (3) (d) of Schedule 1 that the person has been identified as a suspected victim of human trafficking; and

- (C) an officer of that police force tells Immigration, in writing, that the person is no longer identified as a suspected victim;

when the Minister gives a written notice to the holder, by one of the methods specified in section 494B of the Act, that the person is no longer identified as a suspected victim.

060.6 Conditions

060.611 In the case of a visa that is taken to have been granted by operation of section 75 of the Act — conditions 8101 and 8402.

060.612 In any other case:

- (a) conditions 8101 and 8401 must be imposed; and
- (b) any 1 or more of conditions 8403, 8505, 8506, 8507, 8510 and 8511 may be imposed.

060.613 In addition to clauses 060.611 and 060.612, in the case of a visa that has been granted to a person who:

- (a) made the application for the visa in accordance with subregulation 2.20B (2); and
- (b) is the holder of the visa on the basis of satisfying the secondary criteria for the grant of the visa;

condition 8502 must be imposed.

060.7 Way of giving evidence

060.711 No evidence need be given.

060.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 070 Bridging (Removal Pending)

070.1 Interpretation

070.111 In this Part:

eligible non-citizen has the meaning given in regulation 2.20.

Note See regulation 2.20A for how an application for a Bridging R (Class WR) visa is taken to have been validly made.

070.2 Primary criteria

Note All applicants must satisfy the primary criteria.

070.21 Criteria to be satisfied at time of application

070.211 The applicant is an eligible non-citizen referred to in subregulation 2.20 (12) who is taken to have made an application in accordance with subregulation 2.20A (2).

070.22 Criteria to be satisfied at time of decision

070.221 The applicant continues to satisfy the criterion set out in clause 070.211.

070.222 The Minister is satisfied that, if the bridging visa is granted, the applicant will abide by the conditions to which the visa is subject.

070.223 The applicant satisfies public interest criteria 4001 and 4002.

070.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

070.4 Circumstances applicable to grant

070.411 The applicant must be in immigration detention when the visa is granted.

070.5 When visa is in effect

070.511 Bridging visa:

- (a) coming into effect on grant; and
- (b) permitting the holder to remain in Australia; and
- (c) ceasing at the time when the Minister gives a notice in writing to the holder, by one of the methods specified in section 494B of the Act, stating that:
 - (i) the Minister is satisfied that the holder's removal from Australia is reasonably practicable; or
 - (ii) the holder has breached a condition to which the visa is subject.

070.6 Conditions

070.611 Conditions 8303, 8401, 8506, 8513, 8514, 8541, 8542 and 8543 must be imposed.

070.7 Way of giving evidence

070.711 No evidence need be given.

070.712 If evidence is given, to be given by a label affixed to a valid passport or an approved form.

Subclass 100 Partner

100.1 Interpretation

100.111 In this Part:

sponsoring partner, in relation to an applicant, means:

- (a) the person who was specified as the applicant's spouse, intended spouse or de facto partner in the application that resulted in the grant of the Subclass 309 (Spouse (Provisional)) visa or Subclass 309 (Partner (Provisional)) visa mentioned in paragraph 100.221 (2) (a), (3) (a) or (4) (a), as the case requires; or

- (b) for a person to whom the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa — the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was the spouse or de facto partner of that person at the time the visa was granted.

Note *Australian permanent resident, eligible New Zealand citizen, long-term partner relationship* and *permanent humanitarian visa* are defined in regulation 1.03, *de facto partner* is defined in section 5CB of the Act, and *spouse* is defined in section 5F of the Act.

100.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

100.21 [No criteria to be satisfied at time of application]

100.22 Criteria to be satisfied at time of decision

- 100.221 (1) The applicant meets the requirements of subclause (2), (2A), (3), (4) or (4A).
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant:
- (i) is the holder of a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa; or
 - (ii) was the holder of a Subclass 309 (Spouse (Provisional)) visa granted before 1 November 1999 that has ceased to be in effect because the applicant:
 - (A) was outside Australia at the end of the 30 month period specified in the Subclass 309 visa for travelling to and entering Australia; or

- (B) left Australia after the end of the 30 month period specified in that visa for travelling to and entering Australia; and
- (b) the applicant is the spouse or de facto partner of the sponsoring partner; and
- (c) subject to subclauses (5), (6) and (7), at least 2 years have passed since the application was made.
- (2A) The applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and
- (b) the applicant is the spouse or de facto partner of the sponsoring partner; and
- (c) subject to subclauses (5), (6) and (7), at least 2 years have passed since the Minister made the decision mentioned in paragraph (a).
- (3) The applicant meets the requirements of this subclause if the applicant:
- (a) first entered Australia as the holder of a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa and either:
- (i) continues to be the holder of that visa; or
- (ii) is no longer the holder of that visa because the visa:
- (A) was granted before 1 November 1999; and
- (B) has ceased to be in effect because the applicant:
- (I) was outside Australia at the end of the 30 month period specified in the Subclass 309 visa for travelling to and entering Australia; or
- (II) left Australia after the end of the 30 month period specified in that visa for travelling to and entering Australia; and

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- (b) would meet the requirements of subclause (2) or (2A) except that, after the applicant first entered Australia as the holder of the visa mentioned in paragraph (a), the sponsoring partner has died; and
 - (c) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died.
- (4) The applicant meets the requirements of this subclause if:
- (a) the applicant first entered Australia as the holder of a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa and either:
 - (i) continues to be the holder of that visa; or
 - (ii) is no longer the holder of that visa because the visa:
 - (A) was granted before 1 November 1999; and
 - (B) has ceased to be in effect because the applicant:
 - (I) was outside Australia at the end of the 30 month period specified in the Subclass 309 visa for travelling to and entering Australia; or
 - (II) left Australia after the end of the 30 month period specified in that visa for travelling to and entering Australia; and
 - (b) the applicant would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and
 - (c) after the applicant first entered Australia as the holder of the visa mentioned in paragraph (a) — either or both of the following circumstances applies:
 - (i) either or both of the following:
 - (A) the applicant;

- (B) a member of the family unit of the sponsoring partner or of the applicant or of both of them; has suffered family violence committed by the sponsoring partner;
- (ii) the applicant:
 - (A) has custody or joint custody of, or access to; or
 - (B) has a residence order or contact order made under the *Family Law Act 1975* relating to; at least 1 child in respect of whom the sponsoring partner:
 - (C) has been granted joint custody or access by a court; or
 - (D) has a residence order or contact order made under the *Family Law Act 1975*; or
 - (E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note For special provisions relating to family violence, see Division 1.5.

(4A) The applicant meets the requirements of this subclause:

- (a) if the applicant held a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa that ceased on notification of a decision of the Minister to refuse a Subclass 100 visa; and
- (b) if the Tribunal:
 - (i) has remitted that decision for reconsideration and, as a result, the Minister decides that the applicant satisfies the criteria for the grant of a Subclass 100 visa apart from the criterion that the applicant hold a Subclass 309 visa; or
 - (ii) has determined that the applicant satisfies the criteria for the grant of a Subclass 100 visa apart from the criterion that the applicant hold a Subclass 309 visa.

(5) Paragraphs (2) (c) and (2A) (c) do not apply to an applicant who at the time of making the application was in a long-term partner relationship with the sponsoring partner.

(6) Paragraphs (2) (c) and (2A) (c) do not apply to an applicant whose sponsoring partner:

- (a) is, or was, the holder of a permanent humanitarian visa; and
- (b) before that permanent visa was granted, was in a married relationship or de facto relationship with the applicant of which Immigration was informed before that permanent visa was granted.

(7) Nothing in paragraphs (2) (c) and (2A) (c) prevents the Minister, less than 2 years after the application is made, from:

- (a) refusing to grant a Subclass 100 visa; or
- (b) granting a Subclass 100 visa to an applicant who meets the requirements of subclause (3) or (4).

100.222 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
- (b) if the applicant had turned 18 at the time of application — public interest criterion 4019.

100.223 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

100.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 100 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 100 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

100.225 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

100.226 If:

- (a) at least 2 years have passed since the application was made; and
- (b) the applicant does not meet the requirements of subclause 100.221 (2A), (3) or (4);

the applicant is nominated for the grant of the Subclass 100 visa by the sponsoring partner.

100.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

100.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

100.31 Criteria to be satisfied at time of application

100.311 The applicant is a member of the family unit of a person who has applied for a Partner (Migrant) (Class BC) visa, and the Minister has not decided to grant or refuse to grant a visa to the person.

100.32 Criteria to be satisfied at time of decision

100.321 The applicant:

- (a) is the holder of a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa that was granted on the basis that the applicant was a member of the family unit of another person who was the holder of a Subclass 309 visa, and that other person has been granted a Subclass 100 visa; or
- (b) was the holder of a Subclass 309 (Spouse (Provisional)) visa granted before 1 November 1999 that:
 - (i) has ceased to be in effect because the applicant:
 - (A) was outside Australia at the end of the 30 month period specified in the Subclass 309 visa for travelling to and entering Australia; or
 - (B) left Australia after the end of the 30 month period specified in that visa for travelling to and entering Australia; and
 - (ii) was granted on the basis that the applicant was a member of the family unit of another person who was the holder of a Subclass 309 visa, and that other person has been granted a Subclass 100 visa; or
- (c) is the holder of a Subclass 445 (Dependent Child) visa that was granted on the basis that the applicant was the dependent child of a parent who was the holder of a Subclass 309 or 445 visa and who has been granted a Subclass 100 visa; or
- (d) is a person:
 - (i) who holds:
 - (A) a Subclass 445 (Dependent Child) visa; or
 - (B) a Subclass 309 (Spouse (Provisional)) visa; or
 - (C) a Subclass 309 (Partner (Provisional)) visa; which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and

- (ii) who, at the time the visa mentioned in subparagraph (i) was granted, was the dependent child, or a member of the family unit, as the case requires, of another person:
 - (A) who, at the time mentioned in subparagraph (ii), was the holder of a Subclass 445 (Dependent Child), a Subclass 309 (Spouse (Provisional)) visa or a Subclass 309 (Partner (Provisional)) visa; and
 - (B) who, since the time mentioned in subparagraph (ii), has been granted a Subclass 100 visa.
- 100.322 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 100.323 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
 - (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 100.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 100.325 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

100.4 Circumstances applicable to grant

- 100.411 The applicant must be:
- (a) in Australia, but not in immigration clearance; or
 - (b) outside Australia;
- when the visa is granted.

100.5 When visa is in effect

- 100.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

100.6 Conditions

- 100.611 If the applicant is outside Australia at the time of grant, first entry must be made before a date specified by the Minister for the purpose.
- 100.612 If the applicant meets the primary criteria and is outside Australia at the time of the grant, condition 8502 may be imposed before the applicant's first entry to Australia as the holder of the visa.
- 100.613 If the applicant meets the secondary criteria and is outside Australia at the time of the grant, either or both of conditions 8502 and 8515 may be imposed before the applicant's first entry to Australia as the holder of the visa.

100.7 Way of giving evidence

- 100.711 No evidence need be given.
- 100.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 101 Child

101.1 Interpretation

Note *eligible New Zealand citizen, dependent child and step-child* are defined in regulation 1.03, *adoption* is defined in regulation 1.04, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

There are no interpretation provisions specific to this Part.

101.2 Primary criteria

Note 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.

101.21 Criteria to be satisfied at time of application

- 101.211 (1) The applicant:
- (a) is a dependent child of:
 - (i) an Australian citizen; or
 - (ii) the holder of a permanent visa; or
 - (iii) an eligible New Zealand citizen; and
 - (b) subject to subclause (2), has not turned 25; and
 - (c) either:
 - (i) is:
 - (A) the child (other than an adopted child); or
 - (B) the step-child within the meaning of paragraph (b) of the definition of *step-child*; of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph (a); or
 - (ii) was adopted overseas by a person who, at the time of adoption, was not an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, but later became an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen.

(2) Paragraph (1) (b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

101.212 The applicant is sponsored by a person who:

- (a) has turned 18; and
- (b) is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and
- (c) is:
 - (i) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 101.211 (1); or
 - (ii) the cohabiting spouse or de facto partner of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 101.211 (1).

101.213 (1) If the applicant has turned 18:

- (a) the applicant:
 - (i) is not engaged to be married; and
 - (ii) does not have a spouse or de facto partner; and
 - (iii) has never had a spouse or de facto partner; and
- (b) the applicant is not engaged in full-time work; and
- (c) subject to subclause (2), the applicant has, since turning 18, or within 6 months or a reasonable time after completing the equivalent of year 12 in the Australian school system, been undertaking a full-time course of study at an educational institution leading to the award of a professional, trade or vocational qualification.

(2) Paragraph (1) (c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

101.22 Criteria to be satisfied at time of decision

101.221 (1) In the case of an applicant who had not turned 18 at the time of application, the applicant:

- (a) continues to satisfy the criterion in clause 101.211; or
 - (b) does not continue to satisfy that criterion only because the applicant has turned 18.
- (2) In the case of an applicant who had turned 18 at the time of application:
- (a) the applicant:
 - (i) continues to satisfy the criterion in clause 101.211; or
 - (ii) does not continue to satisfy that criterion only because the applicant has turned 25; and
 - (b) the applicant continues to satisfy the criterion in clause 101.213.
- 101.222 The sponsorship referred to in clause 101.212 has been approved by the Minister and is still in force.
- 101.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 101.225 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 101.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 101.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 101 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 101 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

101.228 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

101.229 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

101.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

101.31 Criteria to be satisfied at the time of application

101.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 101.21.

101.312 The sponsorship referred to in clause 101.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

101.32 Criteria to be satisfied at time of decision

101.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 101 visa.

- 101.322 The sponsorship referred to in clause 101.312 has been approved by the Minister and is still in force.
- 101.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 101.325 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 101.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 101.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

101.4 Circumstances applicable to grant

- 101.411 The applicant must be outside Australia when the visa is granted.

101.5 When visa is in effect

- 101.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

101.6 Conditions

- 101.611 First entry must be made before a date specified by the Minister for the purpose.
- 101.612 Either or both of conditions 8502 and 8515 may be imposed.

101.7 Way of giving evidence

- 101.711 No evidence need be given.
- 101.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 102 Adoption

102.1 Interpretation

102.111 In this Part:

adoptive parent, in relation to an applicant, means the person referred to in paragraph 102.211 (2) (b) or 102.211 (5) (b).

child for adoption means an applicant referred to in subclause 102.211 (3) or (4).

prospective adoptive parent, in relation to an applicant, means:

- (a) the unmarried person referred to in subparagraph 102.211 (3) (c) (i); or
- (b) each of the spouses or de facto partners referred to in subparagraph 102.211 (3) (c) (ii); or
- (c) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen referred to in paragraph 102.211 (4) (c);

as the case requires.

Note *eligible New Zealand citizen* is defined in regulation 1.03, and *adoption* is defined in regulation 1.04.

102.2 Primary criteria

Note 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.

102.21 Criteria to be satisfied at time of application

- 102.211 (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant has not turned 18; and
 - (b) the applicant was adopted overseas by a person who:
 - (i) was, at the time of the adoption, an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and
 - (ii) had been residing overseas for more than 12 months at the time of the application; and
 - (c) the Minister is satisfied that the residence overseas by the adoptive parent was not contrived to circumvent the requirements for entry to Australia of children for adoption; and
 - (d) the adoptive parent has lawfully acquired full and permanent parental rights by the adoption.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant has not turned 18; and
 - (b) the applicant is resident in an overseas country; and
 - (c) either:
 - (i) a person who is not in a married relationship or de facto relationship, and who is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen has undertaken in writing to adopt the applicant; or
 - (ii) spouses or de facto partners, at least one of whom is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, have undertaken in writing to adopt the applicant; and

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- (d) a competent authority in Australia:
- (i) has approved the prospective adoptive parent as a suitable adoptive parent for the applicant; or
 - (ii) has approved the prospective adoptive parent and the spouse or de facto partner of the prospective adoptive parent as suitable adoptive parents for the applicant.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant has not turned 18; and
 - (b) the applicant is resident in an overseas country; and
 - (c) a competent authority in the overseas country has allocated the applicant for prospective adoption by a person who is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen, or such a person and that person's spouse or de facto partner; and
 - (d) either:
 - (i) arrangements for the adoption are in accordance with the Adoption Convention; or
 - (ii) the adoption is of a kind that may be accorded recognition by regulation 5 of the *Family Law (Bilateral Arrangements — Intercountry Adoption) Regulations 1998*; and
 - (e) a competent authority in Australia:
 - (i) has approved the prospective adoptive parent as a suitable adoptive parent for the applicant; or
 - (ii) has approved the prospective adoptive parent and the spouse or de facto partner of the prospective adoptive parent as suitable adoptive parents for the applicant.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant has not turned 18; and
 - (b) the applicant was adopted in accordance with the Adoption Convention, in an Adoption Convention country, by a person who was an Australian citizen, a holder of a permanent visa or an eligible New Zealand

citizen when the adoption took place, or by such a person and that person's spouse or de facto partner.

- 102.212 The applicant is sponsored by a person who is:
- (a) an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and
 - (b) in the case of an applicant who is a child for adoption — a prospective adoptive parent of the child; and
 - (c) in the case of an applicant who is an adopted child — an adoptive parent of the child.
- 102.213 The laws relating to adoption of the country in which the child is normally resident have been complied with.

102.22 Criteria to be satisfied at time of decision

- 102.221 The applicant continues to satisfy the criteria in clauses 102.211 and 102.213.
- 102.222 The sponsorship referred to in clause 102.212 has been approved by the Minister and is still in force.
- 102.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.
- 102.225 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 102.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 102 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 102 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

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- 102.227 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 102.227A If the applicant has met the requirements of subclause 102.211 (3), a competent authority in the overseas country has approved the departure of the applicant:
- (a) for adoption in Australia; or
 - (b) in the custody of the prospective adoptive parent or parents.
- 102.228 (1) If:
- (a) the applicant has met the requirements of subclause 102.211 (4) or (5); and
 - (b) the adoption of the applicant took place overseas —
an adoption compliance certificate is in force in relation to the adoption.
- (2) If:
- (a) the applicant has met the requirements of subclause 102.211 (4); and
 - (b) the adoption of the applicant is to take place in Australia —
the Minister is satisfied that a competent authority in the overseas country has given permission for the child to leave the overseas country in the care of a prospective adoptive parent for the purpose of adoption in Australia.
- 102.229 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

102.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

102.31 Criteria to be satisfied at time of application

102.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 102.21.

102.312 The sponsorship referred to in clause 102.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

102.32 Criteria to be satisfied at time of decision

102.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 102 visa.

102.322 The sponsorship referred to in clause 102.312 has been approved by the Minister and is still in force.

102.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

102.325 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

102.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

102.327 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:

- (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

102.4 Circumstances applicable to grant

- 102.411 The applicant must be outside Australia when the visa is granted.

102.5 When visa is in effect

- 102.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

102.6 Conditions

- 102.611 First entry must be made before a date specified by the Minister for the purpose.

- 102.612 Either or both of conditions 8502 and 8515 may be imposed.

102.7 Way of giving evidence

- 102.711 No evidence need be given.

- 102.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 103 Parent

103.1 Interpretation

Note *eligible New Zealand citizen*, *aged parent*, *close relative*, *guardian* and *settled* are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, parent is defined in subsection 5 (1) of the Act, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A) , and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

103.2 Primary criteria

Note 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.

103.21 Criteria to be satisfied at time of application

103.211 The applicant is a parent of a person who is:

- (a) a settled Australian citizen; or
- (b) a settled Australian permanent resident; or
- (c) a settled eligible New Zealand citizen.

103.212 (1) The applicant is sponsored in accordance with subclause (2) or (3).

(2) If the child has turned 18, the applicant is sponsored by:

- (a) the child; or
- (b) the child's cohabiting spouse or de facto partner, if that spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:

- (a) the child's cohabiting spouse, if that spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
- (b) a person who:
 - (i) is a close relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or

- (B) a settled Australian permanent resident; or
- (C) a settled eligible New Zealand citizen; or
- (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a close relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
- (d) a community organisation.

(4) In this clause, *the child* means the settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen referred to in clause 103.211.

103.213 The applicant satisfies the balance of family test.

103.22 Criteria to be satisfied at time of decision

103.221 The applicant continues to satisfy the criterion in clause 103.211.

103.222 A sponsorship of the kind mentioned in clause 103.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 103.212.

103.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

103.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

- 103.226 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 103.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 103 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 103 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 103.228 If a person (in this clause called the ***additional applicant***):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 103.229 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:

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- (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

103.230 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

103.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

103.31 Criteria to be satisfied at time of application

- 103.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 103.21.
- 103.312 A sponsorship of the kind mentioned in clause 103.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant.

103.32 Criteria to be satisfied at time of decision

- 103.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 103 visa.
- 103.322 A sponsorship of the kind mentioned in clause 103.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant; whether or not the sponsor was the sponsor when the Minister first approved a sponsorship.
- 103.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 103.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 103.325 The Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or

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- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 103.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 103.327 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);
the applicant has withdrawn all applications for the review or review proceedings.

103.328 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

103.4 Circumstances applicable to grant

103.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

103.5 When visa is in effect

103.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

103.6 Conditions

103.611 First entry must be made before a date specified by the Minister for the purpose.

103.612 Either or both of conditions 8502 and 8515 may be imposed.

103.7 Way of giving evidence

103.711 No evidence need be given.

103.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 105 Skilled — Australian-linked

105.1 Interpretation

105.111 In this Part:

usual occupation, in relation to an applicant, has the meaning set out in subregulation 2.26 (5).

Note Occupations Requiring English List is defined in regulation 1.19. For *vocational English*, see regulation 1.15B.

105.2 Primary criteria

Note 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.

105.21 Criteria to be satisfied at time of application

105.211 The applicant:

- (a) is a brother, sister, nephew, niece or parent; or
- (b) is a child (other than a dependent child);

of a person (in this clause called *the sponsor*) who has turned 18 and who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

105.212 The applicant is sponsored by the sponsor.

105.213 The applicant is of working age.

105.22 Criteria to be satisfied at time of decision

105.221 The sponsorship referred to in clause 105.212 has been approved by the Minister and is still in force.

105.222 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note The Subdivision mentioned (ss 92 to 96) provides for the application of a *points* system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are

provided for in Division 2.6 (regulations 2.26 and 2.27), and Schedule 6, of these Regulations. In certain circumstances, attributes of the spouse or de facto partner of an applicant may be taken into account (regulation 2.27). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (s 96).

- 105.223 If the applicant satisfies the criterion specified in clause 105.222 by reason of the operation of regulation 2.27, the spouse or de facto partner of the applicant was, at the time of application, of working age.
- 105.224 (1) Subject to subclause (2), if the usual occupation of the applicant is an occupation included in the Occupations Requiring English List, the applicant has vocational English.
- (2) If:
- (a) the applicant satisfies the criterion specified in clause 105.222 by reason of the operation of regulation 2.27; and
 - (b) the usual occupation of the spouse or de facto partner of the applicant is an occupation included in the Occupations Requiring English List;
- the spouse or de facto partner of the applicant has vocational English.
- (3) For this clause, if an applicant is a person to whom subregulation 2.08D (1) applies, the Occupations Requiring English List for the applicant's further application under regulation 2.08D, means the list that, under regulation 1.19, was published in the *Gazette* on 31 August 1994.
- 105.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 105.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 105.227 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

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- 105.228 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 105 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 105 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 105.229 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 105.230 Approval of the application would not result in either:
- (a) the number of Subclass 105 visas granted in a financial year exceeding the maximum number of Subclass 105 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 105) granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in a financial year.

105.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

105.31 Criteria to be satisfied at time of application

- 105.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 105.21.
- 105.312 The sponsorship referred to in clause 105.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

105.32 Criteria to be satisfied at time of decision

- 105.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 105 visa.
- 105.322 The sponsorship referred to in clause 105.312 has been approved by the Minister and is still in force.
- 105.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009 and 4010.
- 105.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 105.325 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 105.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

105.4 Circumstances applicable to grant

105.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

105.5 When visa is in effect

105.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

105.6 Conditions

105.611 First entry must be made before a date specified by the Minister for the purpose.

105.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

105.613 Condition 8515 may be imposed.

105.7 Way of giving evidence

105.711 Visa label affixed to a valid passport.

Subclass 106 Regional-linked

106.1 Interpretation

106.111 In this Part:

degree has the meaning given in subregulation 2.26 (5).

designated area means an area specified by Gazette Notice as a designated area for item 6701 in Schedule 6.

diploma has the meaning given in subregulation 2.26 (5).

medical practitioner includes a specialist medical practitioner.

relevant Australian authority has the meaning given in subregulation 2.26 (5).

trade certificate has the meaning given in subregulation 2.26 (5).

usual occupation has the meaning given in subregulation 2.26 (5).

Note 1 For *Occupations Requiring English List*, see r 1.19.

Note 2 For *vocational English*, see r 1.15B.

106.2 Primary criteria

Note 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.

106.21 Criteria to be satisfied at time of application

106.211 The applicant:

- (a) is a brother, sister, nephew, niece or parent; or
- (b) is a child (other than a dependent child); or
- (c) is a grandchild or first cousin;

of a person (in this Division called *the sponsor*) who has turned 18 and who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

106.212 The applicant is sponsored by the sponsor.

106.213 The sponsor:

- (a) is resident in a designated area; and
- (b) was resident in one or other of the designated areas throughout the period of 12 months immediately before Immigration receives the relevant sponsorship (except for short absences for the purposes of recreation or business); and
- (c) is not, at the time Immigration receives the relevant sponsorship, receiving a benefit under the *Student and Youth Assistance Act 1973* or any form of Australian social security benefit, allowance or pension, other than:
 - (i) an age pension under the *Social Security Act 1991*; or
 - (ii) a family allowance, or family allowance supplement, under that Act; or

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- (iii) a pension under the *Seamen's War Pensions and Allowances Act 1940* or the *Veterans' Entitlements Act 1986*; and
- (d) is either:
- (i) a person who:
 - (A) is financially independent, engaged in paid employment or receiving a pension referred to in subparagraph (c) (i) or (iii); and
 - (B) has not received, in respect of a period or periods amounting to more than 2 weeks during that period of 12 months, a job search allowance, a newstart allowance or a special benefit under the *Social Security Act 1991*; or
 - (ii) a person who:
 - (A) is not financially independent, engaged in paid employment or receiving a pension referred to in subparagraph (c) (i) or (iii); and
 - (B) does not have a spouse or de facto partner who has received, in respect of a period or periods amounting to more than 2 weeks during that period of 12 months, a job search allowance, a newstart allowance or a special benefit under the *Social Security Act 1991*.
- 106.214 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if the applicant:
- (a) is less than 45 years of age; and
 - (b) does not have a usual occupation as a medical practitioner; and
 - (c) has not obtained a medical qualification within the period of 5 years immediately before the time of application.
- (3) The applicant meets the requirements of this subclause if the spouse or de facto partner of the applicant:
- (a) is an applicant for a Subclass 106 visa; and
 - (b) is less than 45 years of age; and

- (c) does not have a usual occupation as a medical practitioner; and
- (d) has not obtained a medical qualification within the period of 5 years immediately before the time of application.

106.22 Criteria to be satisfied at time of decision

106.221 The sponsorship referred to in clause 106.212 has been approved by the Minister and is still in force.

106.222 The sponsor is still resident in a designated area.

106.223 (1) The applicant:

- (a) meets the requirements of subclause (2); or
- (b) does not meet those requirements but meets the requirements of subclause (3).

(2) The applicant meets the requirements of this subclause if the applicant:

- (a) met the requirements of subclause 106.214 (2) at the time of the applicant's application; and
- (b) has a usual occupation, other than as a medical practitioner, being an occupation for which, in Australia, a degree, diploma or trade certificate is required; and
- (c) holds a degree, diploma or trade certificate that:
 - (i) is relevant to that usual occupation; and
 - (ii) is assessed by the relevant Australian authority as equivalent to the Australian standards for the occupation; and
- (d) has English-language skills that meet the requirements of subclause (4).

(3) The applicant meets the requirements of this subclause if:

- (a) the applicant met the requirements of subclause 106.214 (3) at the time of the applicant's application; and

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- (b) the applicant's spouse or de facto partner continues to meet the requirement of paragraph 106.214 (3) (a); and
 - (c) the applicant's spouse or de facto partner has a usual occupation, other than as a medical practitioner, being an occupation for which, in Australia, a degree, diploma or trade certificate is required; and
 - (d) the applicant's spouse or de facto partner holds a degree, diploma or trade certificate that:
 - (i) is relevant to that usual occupation; and
 - (ii) is assessed by the relevant Australian authority as equivalent to the Australian standards for the occupation; and
 - (e) the applicant's spouse or de facto partner has English-language skills that meet the requirements of subclause (4).
- (4) The English-language skills of the applicant or the applicant's spouse or de facto partner, as relevant, meet the requirements of this subclause if:
- (a) the applicant or the applicant's spouse or de facto partner:
 - (i) has a usual occupation that is an occupation included in the Occupations Requiring English List; and
 - (ii) has vocational English; or
 - (b) the applicant or the applicant's spouse or de facto partner does not have a usual occupation that is an occupation included in the Occupations Requiring English List but has proficiency in English of at least the standard required for the award of 10 points on the language skill factor of the general points test specified in Part 3 of Schedule 6.
- 106.224 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 106.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

- 106.226 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 106.227 Each member of the family unit of the applicant who is an applicant for a Subclass 106 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 106.228 Each member of the family unit of the applicant who is not an applicant for a Subclass 106 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 106.229 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 106.230 Approval of the application would not result in either:
- (a) the number of Subclass 106 visas granted in a financial year exceeding the maximum number of Subclass 106 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 106) granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in a financial year.

106.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

106.31 Criteria to be satisfied at time of application

106.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 106.21.

106.312 The sponsorship referred to in clause 106.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

106.32 Criteria to be satisfied at time of decision

106.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 106 visa.

106.322 The sponsorship referred to in clause 106.312 has been approved by the Minister and is still in force.

106.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

106.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

106.325 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

106.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

106.4 Circumstances applicable to grant

106.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

106.5 When visa is in effect

106.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

106.6 Conditions

106.611 First entry must be made before a date specified by the Minister for the purpose.

106.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

106.613 Condition 8515 may be imposed.

106.7 Way of giving evidence

106.711 Visa label affixed to a valid passport

Subclass 114 Aged Dependent Relative

114.1 Interpretation

Note *aged dependent relative*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

114.2 Primary criteria

Note 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.

114.21 Criteria to be satisfied at time of application

114.211 The applicant is an aged dependent relative of a person who is:

- (a) an Australian citizen; or
- (b) an Australian permanent resident; or
- (c) an eligible New Zealand citizen.

114.212 (1) The applicant is sponsored:

- (a) if the Australian relative has turned 18 and is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen — by the Australian relative; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) cohabits with the Australian relative; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) has turned 18.

(2) In this clause, *the Australian relative* means the person mentioned in clause 114.211 of whom the applicant is an aged dependent relative.

114.22 Criteria to be satisfied at time of decision

114.221 The applicant continues to satisfy the criterion in clause 114.211.

114.222 The sponsorship referred to in clause 114.212 has been approved by the Minister and is still in force.

114.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4019.

- 114.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 114.225 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 114.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 114 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia, satisfies special return criteria 5001 and 5002.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 114 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 114.227 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 114.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

114.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

114.31 Criteria to be satisfied at time of application

- 114.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 114.21.
- 114.312 The sponsorship referred to in clause 114.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

114.32 Criteria to be satisfied at time of decision

- 114.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 114 visa.
- 114.322 The sponsorship referred to in clause 114.312 has been approved by the Minister and is still in force.
- 114.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 114.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 114.325 The Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 114.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 114.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

114.4 Circumstances applicable to grant

- 114.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

114.5 When visa is in effect

- 114.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

114.6 Conditions

- 114.611 First entry must be made before a date specified by the Minister for the purpose.
- 114.612 Either or both of conditions 8502 and 8515 may be imposed.

114.7 Way of giving evidence

- 114.711 No evidence need be given.
- 114.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 115 Remaining Relative

115.1 Interpretation

Note *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, *remaining relative* is defined in regulation 1.15, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

115.2 Primary criteria

Note 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.

115.21 Criteria to be satisfied at time of application

115.211 (1) The applicant is a remaining relative of an Australian relative of the applicant.

(2) In this clause, *Australian relative*, in relation to an applicant, means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

115.212 The applicant is sponsored:

- (a) if the Australian relative has turned 18 and is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen — by the Australian relative; or
- (b) by the spouse or de facto partner of the Australian relative if:
 - (i) the spouse or de facto partner cohabits with the relative; and
 - (ii) the spouse or de facto partner is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) the spouse or de facto partner has turned 18.

115.22 Criteria to be satisfied at time of decision

115.221 The applicant continues to satisfy the criterion in clause 115.211.

115.222 A sponsorship of the kind mentioned in clause 115.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 115.212.

115.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

115.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

115.225 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

115.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 115 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (aa) if the member had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (b) if the member has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 115 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

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- 115.227 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 115.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

115.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

115.31 Criteria to be satisfied at time of application

- 115.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 115.21.
- 115.312 A sponsorship of the kind mentioned in clause 115.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant.

115.32 Criteria to be satisfied at time of decision

- 115.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 115 visa.
- 115.322 A sponsorship of the kind mentioned in clause 115.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and

- (b) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.
- 115.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 115.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 115.325 The Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 115.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 115.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

115.4 Circumstances applicable to grant

- 115.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

115.5 When visa is in effect

115.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

115.6 Conditions

115.611 First entry must be made before a date specified by the Minister for the purpose.

115.612 Either or both of conditions 8502 and 8515 may be imposed.

115.7 Way of giving evidence

115.711 No evidence need be given.

115.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 116 Carer

116.1 Interpretation

Note *dependent child* and *eligible New Zealand citizen* are defined in regulation 1.03, *carer* is defined in regulation 1.15AA, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

116.2 Primary criteria

Note 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.

116.21 Criteria to be satisfied at time of application

116.211 (1) The applicant claims to be a carer of an Australian relative of the applicant.

(2) In this clause, *Australian relative*, in relation to an applicant, means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

- 116.212 The applicant is sponsored:
- (a) by the Australian relative mentioned in clause 116.211 if that relative has turned 18; or
 - (b) by the spouse or de facto partner of the Australian relative if:
 - (i) the spouse or de facto partner cohabits with the relative; and
 - (ii) the spouse or de facto partner is an Australian citizen or an Australian permanent resident or an eligible New Zealand citizen; and
 - (iii) the spouse or de facto partner has turned 18.

116.22 Criteria to be satisfied at time of decision

- 116.221 The applicant is a carer of the Australian relative mentioned in clause 116.211.
- 116.222 The sponsorship referred to in clause 116.212 has been approved by the Minister and is still in force.
- 116.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 116.224 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.
- 116.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 116 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (aa) if the member had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia, satisfies special return criterion 5001.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 116 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

116.227 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

116.228 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

116.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

116.31 Criteria to be satisfied at time of application

116.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 116.21.

116.312 The sponsorship referred to in clause 116.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

116.32 Criteria to be satisfied at time of decision

- 116.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 116 visa.
- 116.322 The sponsorship referred to in clause 116.312 has been approved by the Minister and is still in force.
- 116.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 116.324 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.
- 116.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 116.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

116.4 Circumstances applicable to grant

- 116.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted, unless the applicant is a person in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer.

116.5 When visa is in effect

- 116.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

116.6 Conditions

- 116.611 First entry must be made before a date specified by the Minister for the purpose.
- 116.612 Either or both of conditions 8502 and 8515 may be imposed.

116.7 Way of giving evidence

- 116.711 No evidence need be given.
- 116.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 117 Orphan Relative

117.1 Interpretation

- 117.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note dependent child, eligible New Zealand citizen, relative and settled are defined in regulation 1.03, *orphan relative* is defined in regulation 1.14, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

117.2 Primary criteria

Note 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.

117.21 Criteria to be satisfied at time of application

- 117.211 The applicant:
- (a) is an orphan relative of an Australian relative of the applicant; or
 - (b) is not an orphan relative only because the applicant has been adopted by the Australian relative mentioned in paragraph (a).

- 117.212 The applicant is sponsored:
- (a) by the Australian relative, if the relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident, or a settled eligible New Zealand citizen; or
 - (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) cohabits with the Australian relative.

117.22 Criteria to be satisfied at time of decision

- 117.221 The applicant:
- (a) continues to satisfy the criterion in clause 117.211; or
 - (b) does not continue to satisfy that criterion only because the applicant has turned 18.
- 117.222 The sponsorship referred to in clause 117.212 has been approved by the Minister and is still in force.
- 117.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 117.224 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 117.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 117 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 117 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

117.226 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

117.227 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

117.228 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

117.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

117.31 Criteria to be satisfied at time of application

117.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 117.21.

117.312 The sponsorship referred to in clause 117.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

117.32 Criteria to be satisfied at time of decision

117.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 117 visa.

- 117.322 The sponsorship referred to in clause 117.312 has been approved by the Minister and is still in force.
- 117.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 117.324 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 117.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 117.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

117.4 Circumstances applicable to grant

- 117.411 The applicant must be outside Australia when the visa is granted.

117.5 When visa is in effect

- 117.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

117.6 Conditions

- 117.611 First entry must be made before a date specified by the Minister for the purpose.

117.612 Either or both of conditions 8502 and 8515 may be imposed.

117.7 Way of giving evidence

117.711 No evidence need be given.

117.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 118 Designated Parent

118.1 Interpretation

Note *aged parent*, *close relative*, *dependent child*, *eligible New Zealand citizen*, *guardian*, *settled* and *working age parent* are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

118.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

118.21 Criteria to be satisfied at time of application

- 118.211 (1) The applicant:
- (a) made a valid application for a Parent (Migrant) (Class AX) visa in the period from 1 November 1998 to the end of 30 March 1999; and
 - (b) meets the requirements of subclauses (2) and (3); and
 - (c) meets the requirements of subclause (4) or (5).
- (2) A decision to grant, or to refuse to grant, the Parent (Migrant) (Class AX) visa was not made in the period from 1 November 1998 to the end of 30 March 1999.
- (3) The application for the Parent (Migrant) (Class AX) visa has not been withdrawn.

(4) The applicant meets the requirements of this subclause if the applicant:

- (a) is a working age parent; and
- (b) has a dependent child in Australia who:
 - (i) has not turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen.

(5) The applicant meets the requirements of this subclause if the applicant is an aged parent of a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen.

118.212 (1) If the applicant meets the requirements of subclause 118.211 (4), the applicant is sponsored:

- (a) by a person who:
 - (i) is a close relative or guardian of a settled dependent child of the applicant who has not turned 18; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or
- (b) by a community organisation.

(2) In this clause:

settled dependent child means a dependent child of the applicant who is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen.

118.213 (1) If the applicant meets the requirements of subclause 118.211 (5), the applicant is sponsored in accordance with subclause (2) or (3).

(2) If the relevant child has turned 18, the applicant is sponsored by:

- (a) that child; or

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- (b) that child's cohabiting spouse or de facto partner, if that spouse or de facto partner:
- (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen.
- (3) If the relevant child has not turned 18, the applicant is sponsored:
- (a) by that child's cohabiting spouse, if that spouse:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or
 - (b) by a person who:
 - (i) is a close relative or guardian of the relevant child; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or
 - (c) if the relevant child has a cohabiting spouse but the spouse has not turned 18 — by a person who:
 - (i) is a close relative or guardian of the relevant child's spouse; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; or
 - (d) by a community organisation.

(4) In this clause:

relevant child means a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen.

118.214 The applicant satisfies the balance of family test.

118.22 Criteria to be satisfied at time of decision

- 118.221 The applicant continues to satisfy the criteria specified in clause 118.211.
- 118.222 The sponsorship referred to in clause 118.212 or 118.213 has been approved by the Minister and is still in force.
- 118.223 The applicant continues to satisfy the balance of family test.
- 118.224 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 118.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 118.226 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 118.227 (1) Each member of the family unit of the applicant who is an applicant is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the member has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 118.228 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

118.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

118.31 Criteria to be satisfied at time of application

- 118.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 118.21.
- 118.312 The sponsorship referred to in clause 118.212 or 118.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

118.32 Criteria to be satisfied at time of decision

- 118.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 118 visa.
- 118.322 The sponsorship referred to in clause 118.312 has been approved by the Minister and is still in force.
- 118.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 118.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 118.325 The Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 118.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

118.4 Circumstances applicable to grant

118.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

118.5 When visa is in effect

118.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

118.6 Conditions

118.611 First entry must be made before a date specified by the Minister for the purpose.

118.612 Either or both of conditions 8502 and 8515 may be imposed.

118.7 Way of giving evidence

118.711 Visa label affixed to a valid passport.

Subclass 119 Regional Sponsored Migration Scheme

119.1 Interpretation

119.111 In this Part:

regional Australia has the same meaning as in regulation 5.19.

Note 1 For *approved appointment*, see regulation 5.19.

Note 2 For *functional English*, see regulation 5.17.

119.2 Primary criteria

Note 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.

119.21 Criteria to be satisfied at time of application

- 119.211 (1) The applicant has been nominated by an employer, in accordance with subregulation 5.19 (4), for an appointment in the business of that employer.
- (2) For an applicant who is taken, under regulation 2.08C, to have applied for an Employer Nomination (Migrant) (Class AN) visa:
- (a) if the applicant applied for an Independent (Migrant) (Class AT) visa, the applicant:
- (i) had not turned 45 at the time of the application for an Independent (Migrant) (Class AT) visa; and
 - (ii) has functional English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26 (5)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; or
- (b) if the applicant applied for a Skilled — Independent (Migrant) (Class BN) visa, the applicant:
- (i) had not turned 45 at the time of the application for a Skilled — Independent (Migrant) (Class BN) visa; and
 - (ii) has vocational English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; or
- (c) if the applicant applied for a Skilled — Australian-sponsored (Migrant) (Class BQ) visa, the applicant:
- (i) had not turned 45 at the time of the application for a Skilled — Australian-sponsored (Migrant) (Class BQ) visa; and
 - (ii) has vocational English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; or

- (d) if the applicant applied for a Skill Matching (Migrant) (Class BR) visa, the applicant:
 - (i) had not turned 45 at the time of the application for a Skill Matching (Migrant) (Class BR) visa; and
 - (ii) has functional English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment.
- (3) If subclause (2) does not apply, either:
 - (a) if the applicant is mentioned in subparagraph 1114 (2) (a) (ii) of Schedule 1 — the applicant:
 - (i) is less than 45 at the time of the application for a Skilled (Migrant) (Class VE) visa; and
 - (ii) has competent English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; or
 - (b) in any other case — unless exceptional circumstances apply, the applicant:
 - (i) has not turned 45; and
 - (ii) has functional English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification, that is relevant to the appointment.
- (4) If it is mandatory in Australia that a person:
 - (a) hold a licence of a particular kind; or
 - (b) hold registration of a particular kind; or
 - (c) be a member (or a member of a particular kind) of a particular professional body;to perform tasks of the kind to be performed under the appointment, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body.

119.212 If the appointment is an approved appointment, the period that has elapsed since it became an approved appointment does not exceed 6 months.

119.22 Criteria to be satisfied at time of decision

119.221 The appointment mentioned in subclause 119.211 (1):

- (a) has been approved; and
- (b) has not been withdrawn; and
- (c) continues to satisfy the criteria for approval; and
- (d) is still available to the applicant.

Note See regulation 5.19 for the criteria for approval of the appointment.

119.222 The Minister is satisfied that the approved appointment will provide the employment referred to in the relevant employer nomination.

119.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (aa) if the applicant had turned 18 at the time of application, public interest criterion 4019; and
- (b) if the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

119.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 119 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (b) if the person has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 119 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

119.226 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

119.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

119.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

119.31 Criteria to be satisfied at time of application

119.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies, or has satisfied, the primary criteria in Subdivision 119.21.

119.312 Any nomination given in respect of the other person mentioned in clause 119.311 includes the applicant.

119.32 Criteria to be satisfied at time of decision

119.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 119 visa.

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- 119.322 The applicant satisfies:
- (a) public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the applicant to undergo assessment in relation to that criterion; and
 - (c) if the applicant had turned 18 at the time of application — public interest criterion 4019.
- 119.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 119.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 119.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

119.4 Circumstances applicable to grant

- 119.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

119.5 When visa is in effect

- 119.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

119.6 Conditions

- 119.611 First entry must be made before a date specified by the Minister for the purpose.

119.612 Condition 8502 may be imposed.

119.7 Way of giving evidence

119.711 No evidence need be given.

119.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 120 Labour Agreement

120.1 Interpretation

Note 1 For **IASS agreement**, see regulation 1.16B.

Note 2 For **labour agreement**, see regulation 1.03.

Note 3 For **RHQ agreement**, see regulation 1.16A.

There are no interpretation provisions specific to this Part

120.2 Primary criteria

Note 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.

120.21 Criteria to be satisfied at time of application

- 120.211
- (1) For an applicant, other than an applicant mentioned in subclause (5) or (6), the applicant meets the requirements of subclause (2), (3) or (4).
 - (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant has been nominated to work in Australia, in accordance with a labour agreement that is in effect, by an employer that is a party to that labour agreement; and
 - (b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the labour agreement; and
 - (c) unless exceptional circumstances apply, the applicant has not turned 45; and

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- (d) the requirements of the labour agreement have been met in relation to the application.
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant has been nominated to work in Australia, in accordance with an RHQ agreement that is in effect, by an employer that is a party to that RHQ agreement; and
 - (b) the requirements of the RHQ agreement have been met in relation to the application.
 - (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant has been nominated to work in Australia, in accordance with an IASS agreement that is in effect, by an employer that is a party to that IASS agreement; and
 - (b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the IASS agreement; and
 - (c) unless exceptional circumstances apply, the applicant has not turned 45; and
 - (d) the requirements of the IASS agreement have been met in relation to the application.
 - (5) For an applicant who, under regulation 2.08C, is taken to have applied for a Labour Agreement (Migrant) (Class AU) visa, and who seeks to enter Australia to work in accordance with a labour agreement:
 - (a) the applicant has been nominated to work in Australia, in accordance with a labour agreement that is in effect, by an employer that is a party to that labour agreement; and
 - (b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the labour agreement; and
 - (c) the applicant had not turned 45 at the time of the application for an Independent (Migrant) (Class AT) visa, a Skilled — Independent (Migrant) (Class BN) visa or a Skill Matching (Migrant) (Class BR) visa; and

- (d) the requirements of the labour agreement have been met in relation to the application.
- (6) For an applicant who seeks to enter Australia to work in accordance with a labour agreement, and who is mentioned in subparagraph 1121 (2) (a) (ii) of Schedule 1:
 - (a) the applicant has been nominated to work in Australia, in accordance with a labour agreement that is in effect, by an employer that is a party to that labour agreement; and
 - (b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the labour agreement; and
 - (c) the applicant was less than 45 at the time of the application for a Skilled (Residence) (Class VE) visa; and
 - (d) the requirements of the labour agreement have been met in relation to the application; and
 - (e) the applicant has competent English; and
 - (f) the applicant has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is relevant to the appointment.

120.22 Criteria to be satisfied at time of decision

120.221 The Minister is satisfied that the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions under relevant Australian legislation and awards.

120.222 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (aa) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (b) if the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

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- 120.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 120 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 120 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 120.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 120.226 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if:
- (a) the employer mentioned in subclause 120.211 (2) or (5) is a party to a labour agreement that is in effect; and
 - (b) the nomination mentioned in subclause 120.211 (2) or (5):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.

- (3) An applicant meets the requirements of this subclause if:
 - (a) the employer mentioned in subclause 120.211 (3) is a party to an RHQ agreement that is in effect; and
 - (b) the nomination mentioned in subclause 120.211 (3):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the employer mentioned in subclause 120.211 (4) is a party to an IASS agreement that is in effect; and
 - (b) the nomination mentioned in subclause 120.211 (4):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.

120.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

120.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

120.31 Criteria to be satisfied at time of application

120.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies or has satisfied the primary criteria in Subdivision 120.21.

120.312 Any nomination given in respect of the other person mentioned in clause 120.311 includes the applicant.

120.32 Criteria to be satisfied at time of decision

120.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 120 visa.

120.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

120.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

120.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

120.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

120.4 Circumstances applicable to grant

120.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

120.5 When visa is in effect

120.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from date of grant.

120.6 Conditions

- 120.611 First entry must be made before a date specified by the Minister for the purpose.
- 120.612 Condition 8502 may be imposed.

120.7 Way of giving evidence

- 120.711 No evidence need be given.
- 120.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 121 Employer Nomination

121.1 Interpretation

Note 1 **approved appointment** is defined in regulation 5.19.

Note 2 For **vocational English**, see regulation 1.15B.

Note 3 There are no interpretation provisions specific to this Part.

121.2 Primary criteria

Note 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.

121.21 Criteria to be satisfied at time of application

- 121.210 For an applicant who has been nominated by an employer for an appointment in the business of that employer, and who is mentioned in subparagraph 1114 (2) (a) (ii):
- (a) the applicant was less than 45 at the time of the application for a Skilled (Migrant) (Class VE) visa; and
 - (b) the applicant has competent English; and
 - (c) the applicant has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment.

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- 121.211A For an applicant who has been nominated by an employer for an appointment in the business of that employer and who is taken, under regulation 2.08C, to have applied for an Employer Nomination (Migrant) (Class AN) visa:
- (a) if the applicant applied for an Independent (Migrant) (Class AT) visa, the applicant:
 - (i) had not turned 45 at the time of the application for an Independent (Migrant) (Class AT) visa; and
 - (ii) has functional English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26 (5)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; and
 - (b) if the applicant applied for a Skilled — Independent (Migrant) (Class BN) visa, the applicant:
 - (i) had not turned 45 at the time of the application for a Skilled — Independent (Migrant) (Class BN) visa; and
 - (ii) has vocational English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; and
 - (c) if the applicant applied for a Skilled — Australian-sponsored (Migrant) (Class BQ) visa, the applicant:
 - (i) had not turned 45 at the time of the application for a Skilled — Australian-sponsored (Migrant) (Class BQ) visa; and
 - (ii) has vocational English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; and
 - (d) if the applicant applied for a Skill Matching (Migrant) (Class BR) visa, the applicant:
 - (i) had not turned 45 at the time of the application for a Skill Matching (Migrant) (Class BR) visa; and

- (ii) has functional English; and
 - (iii) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment.
- 121.211 If clauses 121.210 and 121.211A do not apply, each of the following is satisfied:
- (a) the applicant has been nominated by an employer, in accordance with subregulation 5.19 (2), for an appointment in the business of that employer;
 - (b) either:
 - (i) both of the following are met:
 - (A) an assessing authority specified by the Minister in a Gazette Notice for this subparagraph as the assessing authority for the occupation to which the appointment relates has assessed the applicant's skills as suitable;
 - (B) unless exceptional circumstances apply, the applicant has been employed in the occupation to which the appointment relates for at least 3 years before making the application; or
 - (ii) the applicant will be paid a salary in the nominated position that is at least the amount of salary specified in a Gazette Notice for this subparagraph;
 - (c) the applicant:
 - (i) unless exceptional circumstances apply, has not turned 45; and
 - (ii) unless exceptional circumstances apply, has vocational English.
- 121.212 If the appointment is an approved appointment, the period that has elapsed since it became an approved appointment does not exceed 6 months.
- 121.213 If it is mandatory in Australia that a person:
- (a) hold a licence of a particular kind; or
 - (b) hold registration of a particular kind; or

-
- (c) be a member (or a member of a particular kind) of a particular professional body;
to perform tasks of the kind to be performed under the appointment, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body.

121.22 Criteria to be satisfied at time of decision

121.221 The appointment mentioned in paragraph 121.211 (a):

- (a) has been approved; and
- (b) has not been withdrawn; and
- (c) continues to satisfy the criteria for approval; and
- (d) is still available to the applicant.

Note See regulation 5.19 for the criteria for approval of the appointment.

121.223 The Minister is satisfied that the approved appointment will provide the employment referred to in the relevant employer nomination.

121.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (aa) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (b) if the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

121.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 121 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (b) if the person has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 121 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

121.227 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

121.228 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

121.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

121.31 Criteria to be satisfied at time of application

121.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies or has satisfied the primary criteria in Subdivision 121.21.

121.312 Any nomination given in respect of the other person mentioned in clause 121.311 includes the applicant.

121.32 Criteria to be satisfied at time of decision

121.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 121 visa.

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- 121.322 The applicant satisfies:
- (a) public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the applicant to undergo assessment in relation to that criterion; and
 - (c) public interest criterion 4019, if the applicant had turned 18 at the time of application.
- 121.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 121.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 121.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

121.4 Circumstances applicable to grant

- 121.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

121.5 When visa is in effect

- 121.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

121.6 Conditions

- 121.611 First entry must be made before a date specified by the Minister for the purpose.

121.612 Condition 8502 may be imposed.

121.7 Way of giving evidence

121.711 No evidence need be given.

121.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 124 Distinguished Talent

124.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

124.2 Primary criteria

Note 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.

124.21 Criteria to be satisfied at time of application

- 124.211 (1) The applicant meets the requirements of subclause (2) or (4).
- (2) The applicant:
- (a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas:
 - (i) a profession;
 - (ii) a sport;
 - (iii) the arts;
 - (iv) academia and research; and
 - (b) is still prominent in the area; and
 - (c) would be an asset to the Australian community; and
 - (d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and

- (e) produces a completed approved form 1000; and

Note An approved form 1000 requires the applicant's record of achievement in an area (as mentioned in paragraph (a)) to be attested to by:

- (a) an Australian citizen; or
- (b) an Australian permanent resident; or
- (c) an eligible New Zealand citizen; or
- (d) an Australian organisation;

who has a national reputation in relation to the area.

- (f) if the applicant has not turned 18, or is at least 55 years old, at the time of application — would be of exceptional benefit to the Australian community.

(4) The applicant meets the requirements of this subclause if, in the opinion of the Minister, acting on the advice of:

- (a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or
- (b) the Director-General of Security;

the applicant has provided specialised assistance to the Australian Government in matters of security.

124.22 Criteria to be satisfied at time of decision

124.221 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

124.222 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

124.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 124 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

- (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 124 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

124.225 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

124.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

124.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

124.3 Secondary criteria

Note 1 These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2 For an applicant for a Distinguished Talent (Migrant) (Class AL) visa who has not turned 18, subregulation 1.12 (6) sets out a specific definition of *member of the family unit* in addition to the operation of subregulation 1.12 (1). For an applicant who has turned 18, see subregulation 1.12 (1).

124.31 Criteria to be satisfied at time of application

124.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies or has satisfied the primary criteria in Subdivision 124.21.

124.32 Criteria to be satisfied at time of decision

124.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 124 visa.

124.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

124.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

124.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

124.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

124.4 Circumstances applicable to grant

124.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

124.5 When visa is in effect

124.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from date of grant.

124.6 Conditions

124.611 First entry must be made before a date specified by the Minister for the purpose.

124.612 Condition 8502 may be imposed.

124.7 Way of giving evidence

124.711 No evidence need be given.

124.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 126 Independent

126.1 Interpretation

126.111 In this Part:

usual occupation, in relation to an applicant, has the meaning set out in subregulation 2.26 (5).

Note *working age* is defined in regulation 1.03. For *vocational English*, see regulation 1.15B.

126.2 Primary criteria

Note 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.

126.21 Criteria to be satisfied at time of application

126.211 The applicant is of working age.

126.22 Criteria to be satisfied at time of decision

126.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note The Subdivision of the Act mentioned (ss 92 to 96) provides for the application of a *points* system under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.6 (see regulation 2.26) and Schedule 6 of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (s 96 of the Act).

126.222 If the usual occupation of the applicant is an occupation included in the Occupations Requiring English List, the applicant has vocational English.

126.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

126.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

126.225 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

126.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 126 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 126 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

- 126.227 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 126.228 Approval of the application would not result in either:
- (a) the number of Subclass 126 visas granted in a financial year exceeding the maximum number of Subclass 126 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 126) granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in a financial year.

126.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

126.31 Criteria to be satisfied at time of application

- 126.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 126.21.

126.32 Criteria to be satisfied at time of decision

- 126.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 126 visa.
- 126.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 126.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

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- 126.324 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 126.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

126.4 Circumstances applicable to grant

- 126.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

126.5 When visa is in effect

- 126.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

126.6 Conditions

- 126.611 First entry must be made before a date specified by the Minister for the purpose.
- 126.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.
- 126.613 Condition 8515 may be imposed.

126.7 Way of giving evidence

- 126.711 Visa label affixed to a valid passport.

Subclass 132 Business Talent

132.1 Interpretation

Note 1 AUD, *fiscal year*, *ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 There are no interpretation provisions specific to this Part.

132.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

132.21 Criteria to be satisfied at time of application

132.211 The applicant has overall had a successful business career.

132.212 For at least 2 of the 4 fiscal years immediately before the application is made:

- (a) the net value of the assets of:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together;in a qualifying business or qualifying businesses in which the applicant had an ownership interest was at least AUD400 000; and
- (b) if a qualifying business mentioned in paragraph (a) was operated by a publicly listed company, the shareholding of:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together;was at least 10% of the total issued capital of the company.

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- 132.213 For at least 2 of the 4 fiscal years immediately before the application is made, the applicant's main business, or the applicant's main businesses together, had an annual turnover of at least AUD3 000 000.
- 132.214 The business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
- (a) have a net value of at least AUD1 500 000; and
 - (b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 132 visa.
- 132.215 The applicant:
- (a) is less than 55 years old; or
 - (b) is proposing to establish or participate in a business that the sponsoring State or Territory has determined is of exceptional economic benefit to the State or Territory.
- 132.216 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.
- 132.217 The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 132 visa:
- (a) either:
 - (i) to establish a qualifying business in Australia; or
 - (ii) to participate in an existing qualifying business in Australia; and
 - (b) to maintain a substantial ownership interest in that business; and
 - (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.
- 132.218 The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 132 visa.

132.22 Criteria to be satisfied at time of decision

- 132.221 The applicant continues to satisfy the criteria in clauses 132.211, 132.214, 132.216 and 132.217.
- 132.222 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 132.223 (1) The applicant is sponsored by a State or Territory.
- (2) Form 1224 is signed by the Premier or Chief Minister, or by a person authorised to do so by the Premier or Chief Minister, of that State or Territory.
- 132.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 132.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 132 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (aa) if the member had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 132 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 132.226 If a person:
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and

- (c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied in relation to the person.

132.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

132.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

132.31 Criteria to be satisfied at time of application

132.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 132.21.

132.32 Criteria to be satisfied at time of decision

132.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 132 visa.

132.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

132.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

132.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

132.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

132.4 Circumstances applicable to grant

132.411 The applicant may be in or outside Australia, but not in immigration clearance.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

132.5 When visa is in effect

132.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

132.6 Conditions

132.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

132.612 If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

132.7 Way of giving evidence

132.711 No evidence need be given.

132.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 134 Skill Matching

134.1 Interpretation

134.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can *complete* a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and *diploma* have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

Note 2 For *vocational English*, see regulation 1.15B.

134.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

134.21 Criteria to be satisfied at time of application

134.210 The application must be made before 1 September 2007.

134.212 The applicant has functional English.

134.213 The applicant has nominated a skilled occupation in his or her application.

- 134.214 (1) The skills of the applicant for the nominated skilled occupation have been assessed by the relevant assessing authority as suitable for that occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.
- 134.215 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation for a period of, or for periods totalling, at least 6 months in the period of 12 months immediately before the day on which the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that

institution while the applicant was present in Australia;

- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
- (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
- (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
- (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

134.216 The applicant has provided the personal and occupational information required for inclusion in Immigration's skill matching database.

134.22 Criteria to be satisfied at time of decision

134.221 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128AA (3) (c) of Schedule 1 is false or misleading in a material particular.

134.222 (1) The applicant has been nominated by a State or Territory government agency and the nomination has been accepted by

the Minister within 2 years after it was established that the applicant satisfies the primary criteria in Subdivision 134.21.

(2) A nomination made under subclause (1) must be:

- (a) made on Form 1100; and
- (b) lodged at an office of Immigration in the relevant State or Territory.

(3) The Minister must not accept a nomination if its acceptance would result in the number of Subclass 134 visa nominations made in a financial year, for a State or Territory, exceeding the maximum number of Subclass 134 visa nominations, as determined by an instrument in writing for this subclause, that may be accepted, for that State or Territory, in that financial year.

134.222A (1) The applicant has been employed in a skilled occupation for at least 6 months in the 12 months immediately before the day when the application was made.

(2) Subclause (1) does not apply to an applicant if:

- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification

(other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;

- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
- (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
- (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
- (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

134.222B (3) In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:

- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or

- (iii) a Subclass 020 Bridging B visa;
authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.
- 134.222C (1) The applicant:
 - (a) has vocational English; or
 - (b) has functional English and meets the requirements of subclause (2).
- (2) The requirements are that:
 - (a) the applicant has been nominated under clause 134.222 by a State or Territory specified by an instrument in writing for this paragraph as a State or Territory in which arrangements are established for suitable English language training for applicants to whom this paragraph applies; and
 - (b) the Minister is satisfied that the applicant has paid any fee or charge for that training.
- 134.222D If:
 - (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant must have lived for at least 2 years in total, as the holder of 1 or more:

 - (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and
 - (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

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- 134.222E If:
- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant must have worked full time for at least 12 months in total, as the holder of 1 or more:
- (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and
 - (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa;
- in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.
- 134.222F If:
- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant has complied with the conditions of that visa.
- 134.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 134.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 134.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 134 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and

- (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 134 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 134.227 If a person (in this clause called the *additional applicant*):
 - (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 134.228 Approval of the application would not result in either:
 - (a) the number of Subclass 134 visas granted in a financial year exceeding the maximum number of Subclass 134 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 134) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in a financial year.
- 134.229 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

134.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

134.31 Criteria to be satisfied at time of application

134.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 134.21.

134.32 Criteria to be satisfied at time of decision

134.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 134 visa.

134.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

134.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

134.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

134.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

134.4 Circumstances applicable to grant

134.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

134.5 When visa is in effect

134.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

134.6 Conditions

134.611 First entry must be made before a date specified by the Minister for the purpose.

134.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

134.613 Condition 8515 may be imposed.

134.7 Way of giving evidence

134.711 No evidence need be given.

134.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 135 State/Territory-nominated Independent

135.1 Interpretation

135.111 In this Part:

medical practitioner includes a specialist medical practitioner.

usual occupation, in relation to an applicant, has the meaning set out in subregulation 2.26 (5).

Note *working age* is defined in regulation 1.03 and *vocational English* is defined in regulation 1.15B.

135.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

135.21 Criteria to be satisfied at time of application

135.211 The applicant is less than 45 years of age.

135.22 Criteria to be satisfied at time of decision

135.221 The applicant has a degree, diploma or trade certificate (within the meaning of subregulation 2.26 (5)) or a higher qualification, but:

- (a) does not have a usual occupation as a medical practitioner; and
- (b) has not obtained a medical qualification within a period of 5 years immediately before the time of application.

135.222 (1) The applicant has been nominated by a State or Territory government agency and the nomination has been accepted by the Minister.

(2) A nomination made under subclause (1) must be:

- (a) made on the approved form; and
- (b) lodged at an office of Immigration in the relevant State or Territory.

(3) The Minister must not accept a nomination if its acceptance would result in the number of Subclass 135 visa nominations made in a financial year, for a State or Territory, exceeding the maximum number of Subclass 135 visa nominations, as determined by Gazette Notice, that may be accepted, for that State or Territory, in that financial year.

135.223 The applicant has a score that is equal to, or more than, the pool mark specified in relation to this Subclass when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note The Subdivision of the Act mentioned (ss 92 to 96) provides for the application of a “points” system under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.6 (see regulation 2.26) and Schedule 6 of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (s 96 of the Act).

- 135.224 (1) If the usual occupation of the applicant is an occupation included in the Occupations Requiring English List, the applicant has vocational English.
- (2) If the usual occupation of the applicant is an occupation that is not included in the Occupations Requiring English List, the applicant has functional English.
- 135.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 135.226 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 135.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 135 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 135 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 135.228 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

135.229 Approval of the application would not result in the number of visas of particular classes (including Subclass 135) granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in a financial year.

135.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

135.31 Criteria to be satisfied at time of application

135.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 135.21.

135.32 Criteria to be satisfied at time of decision

135.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 135 visa.

135.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

135.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

135.324 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

135.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

135.4 Circumstances applicable to grant

135.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

135.5 When visa is in effect

135.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

135.6 Conditions

135.611 First entry must be made before a date specified by the Minister for the purpose.

135.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

135.613 Condition 8515 may be imposed.

135.7 Way of giving evidence

135.711 Visa label affixed to a valid passport.

Subclass 136 Skilled – Independent

136.1 Interpretation

136.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can ***complete*** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and *diploma* have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

Note 2 For *vocational English*, see regulation 1.15B.

136.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

136.21 Criteria to be satisfied at time of application

136.210 The application must be made before 1 September 2007.

136.212 The applicant has nominated a skilled occupation in his or her application.

136.213 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:

(a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made; or

(b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day on which the application was made.

(2) Subclause (1) does not apply to an applicant if:

(a) each of the following subparagraphs applies in relation to the applicant:

- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and

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- (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.
- 136.214 If:
- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant has complied with the conditions of that visa.

136.22 Criteria to be satisfied at time of decision

- 136.221 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
- 136.222 If the assessment mentioned in paragraph 1128C (3) (c) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.
- 136.223 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in ss 92 to 96 for the application of a **points system**, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (see regulation 2.26A), and Schedule 6A, of these regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, s 96).

- 136.223A (1) The applicant has been employed in a skilled occupation:
- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least 12 months in the 18 months immediately before the day when the application was made; or
 - (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least 24 months in the 36 months immediately before the day when the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;

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- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

136.223B In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:

- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
- (b) complied with the conditions of that visa.

- 136.224 The applicant has vocational English.
- 136.225 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128C (3) (c) of Schedule 1 is false or misleading in a material particular.
- 136.226 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 136.227 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 136.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 136 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 136 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 136.230 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 136.231 Approval of the application would not result in either:
- (a) the number of Subclass 136 visas granted in a financial year exceeding the maximum number of Subclass 136 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or

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- (b) the number of visas of particular classes (including Subclass 136) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 136.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.
- 136.233 If the applicant's qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act included (or, under subregulation 2.26A (5A), was taken to have included) the bonus points relating to a designated security mentioned in paragraph (a) of item 6A82 of Part 8 of Schedule 6A, the applicant has deposited at least AUD100 000 in a designated security for a term of not less than 12 months.

136.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

136.31 Criteria to be satisfied at time of application

- 136.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 136.21.
- 136.312 If:
- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant has complied with the conditions of that visa.

136.32 Criteria to be satisfied at time of decision

- 136.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 136 visa.
- 136.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 136.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 136.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 136.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

136.4 Circumstances applicable to grant

- 136.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

136.5 When visa is in effect

- 136.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

136.6 Conditions

- 136.611 First entry must be made before a date specified by the Minister for the purpose.
- 136.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

136.613 Condition 8515 may be imposed.

136.7 Way of giving evidence

136.711 No evidence need be given.

136.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 137 Skilled – State/Territory-nominated Independent

137.1 Interpretation

137.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can *complete* a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and *diploma* have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

Note 2 For *member of the family unit*, see regulation 1.12.

Note 3 For *vocational English*, see regulation 1.15B.

137.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

137.21 Criteria to be satisfied at time of application

137.210 The application must be made before 1 September 2007.

137.213 If the assessment mentioned in paragraph 1128C (3) (c) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.

137.214 (1) Subject to subclause (2), if the applicant:

- (a) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa; and
- (b) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa, but is the spouse or de facto partner, or former spouse or former de facto partner, of a person who is or was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa;

the applicant has been employed in a skilled occupation:

- (c) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made; or
- (d) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day on which the application was made.

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- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;

- (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
- (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

137.215 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant must have lived for at least 2 years in total, as the holder of 1 or more:

- (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

137.215A If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant must have worked full time for at least 12 months in total, as the holder of 1 or more:

- (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

137.216 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant has complied with the conditions of that visa.

137.22 Criteria to be satisfied at time of decision

137.221 If the applicant:

- (a) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa; and
- (b) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa, but is the spouse or de facto partner, or former spouse or former de facto partner, of a person who is or was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa;

the applicant has a score that is equal to, or more than, the pool mark when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a **points system**, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are

provided for in Division 2.2 of Part 2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

- 137.221A (1) If the applicant:
- (a) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa; and
 - (b) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa, but is the spouse or de facto partner, or former spouse or former de facto partner, of a person who is or was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa;
- the applicant has been employed in a skilled occupation:
- (c) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least 12 months in the 18 months immediately before the day when the application was made; or
 - (d) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least 24 months in the 36 months immediately before the day when the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;

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- (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

- 137.221B In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:
- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.
- 137.222 If the applicant:
- (a) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa; and
 - (b) is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa, but is the spouse or de facto partner, or former spouse or former de facto partner, of a person who is or was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa;
- the applicant has vocational English.
- 137.223 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128C (3) (c) of Schedule 1 is false or misleading in a material particular.
- 137.224 (1) The applicant has been nominated by a State or Territory government agency and the nomination has been accepted by the Minister.
- (2) A nomination made under subclause (1) must be:
 - (a) made on Form 1100; and
 - (b) lodged at an office of Immigration in the relevant State or Territory.
 - (3) The Minister must not accept a nomination if its acceptance would result in the number of Subclass 137 visa nominations made in a financial year, for a State or Territory,

exceeding the maximum number of Subclass 137 visa nominations, as determined by an instrument in writing for this subclause, that may be accepted, for that State or Territory, in that financial year.

- 137.225 The applicant satisfies:
- (a) if the applicant was, at the time of application, the holder of a Skilled— Independent Regional (Provisional) (Class UX) visa — public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; or
 - (b) in any other case — public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 137.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 137.228 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 137 visa is a person who:
- (a) either:
 - (i) if the member was, at the time of application, the holder of a Skilled— Independent Regional (Provisional) (Class UX) visa — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; or
 - (ii) in any other case — satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 137 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) if, at the time of application, the member of the family unit was not the holder of a Skilled— Independent Regional (Provisional) (Class UX) visa — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; and

- (c) if, at the time of application, the member of the family unit was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa — satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 137.229 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 137.230 Approval of the application would not result in either:
- (a) the number of Subclass 137 visas granted in a financial year exceeding the maximum number of Subclass 137 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 137) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in a financial year.
- 137.231 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.
- 137.232 If the applicant’s qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act included (or, under subregulation 2.26A (5A), was taken to have included) the bonus points relating to a designated security mentioned in paragraph (a) of item 6A82 of Part 8 of Schedule 6A, the applicant has deposited at least

AUD100 000 in a designated security for a term of not less than 12 months.

137.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

137.31 Criteria to be satisfied at time of application

137.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 137.21.

137.312 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant has complied with the conditions of that visa.

137.32 Criteria to be satisfied at time of decision

137.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 137 visa.

137.322 The applicant satisfies:

- (a) if the applicant was, at the time of application, the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa — public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; or
- (b) in any other case — public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

137.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

137.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 137.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

137.4 Circumstances applicable to grant

- 137.411 If the applicant:
- (a) was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa at the time of application; or
 - (b) is a member of the family unit of an applicant who was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa at the time of application;
- the applicant may be in Australia (but not in immigration clearance) or outside Australia when the visa is granted.
- 137.412 In any other case, the applicant must be outside Australia at the time of grant.

137.5 When visa is in effect

- 137.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

137.6 Conditions

- 137.611 First entry must be made before a date specified by the Minister for the purpose.
- 137.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.
- 137.613 Condition 8515 may be imposed.

137.7 Way of giving evidence

- 137.711 No evidence need be given.

137.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 138 Skilled – Australian-sponsored

138.1 Interpretation

138.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and **diploma** have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For **relevant assessing authority** and **skilled occupation**, see regulation 1.03.

Note 2 For **vocational English**, see regulation 1.15B.

138.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

138.21 Criteria to be satisfied at time of application

138.210 The application must be made before 1 September 2007.

138.211 The applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 138 visa, has one of the following relationships to a

person (*the sponsor*) who has turned 18 and is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen:

- (a) a parent;
- (b) a child or a step-child who is not a dependent child of the sponsor;
- (c) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
- (ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
- (d) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece.

138.212 The applicant is sponsored by the sponsor.

138.215 The applicant has nominated a skilled occupation in his or her application.

138.216 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:

- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made; or
- (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day on which the application was made.

(2) Subclause (1) does not apply to an applicant if:

- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an

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- Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
- (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;

- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

138.22 Criteria to be satisfied at time of decision

138.221 The sponsorship referred to in clause 138.212 has been approved by the Minister and is still in force.

138.223 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

138.224 If the assessment mentioned in paragraph 1128B (3) (c) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.

138.225 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in ss 92 to 96 for the application of a *points system*, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (regulation 2.26A), and Schedule 6A, of these regulations. In certain circumstances, attributes of the spouse or de facto partner of an applicant may be taken into account (regulation 2.27A). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, s 96).

138.225A (1) The applicant has been employed in a skilled occupation:

- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least 12 months in the 18 months immediately before the day when the application was made; or
- (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least

24 months in the 36 months immediately before the day when the application was made.

- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and

- (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.
- 138.225B In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:
- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.
- 138.226 The applicant has vocational English.
- 138.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128B (3) (c) of Schedule 1 is false or misleading in a material particular.
- 138.228 If the applicant does not satisfy the criteria in clauses 138.223, 138.224, 138.226 and 138.227:
- (a) the applicant satisfies the criterion specified in clause 138.225 because of regulation 2.27A; and
 - (b) the applicant's spouse or de facto partner:
 - (i) continues to satisfy the criteria in each of clauses 138.214, 138.215 and 138.216; and

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- (ii) satisfies the criteria in clauses 138.223, 138.224, 138.225A, 138.225B, 138.226 and 138.227.
- 138.229 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 138.230 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 138.231 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 138 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 138 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 138.232 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 138.233 Approval of the application would not result in either:
- (a) the number of Subclass 138 visas granted in a financial year exceeding the maximum number of Subclass 138 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 138) granted in a financial year exceeding the maximum number of visas of those classes, as

determined by an instrument in writing for this paragraph, that may be granted in that financial year.

- 138.234 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

138.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

138.31 Criteria to be satisfied at time of application

- 138.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 138.21.
- 138.312 The sponsorship referred to in clause 138.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

138.32 Criteria to be satisfied at time of decision

- 138.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 138 visa.
- 138.322 The sponsorship referred to in clause 138.312 has been approved by the Minister and is still in force.
- 138.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 138.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 138.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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- 138.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

138.4 Circumstances applicable to grant

- 138.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

138.5 When visa is in effect

- 138.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

138.6 Conditions

- 138.611 First entry must be made before a date specified by the Minister for the purpose.
- 138.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.
- 138.613 Condition 8515 may be imposed.

138.7 Way of giving evidence

- 138.711 No evidence need be given.
- 138.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 139 Skilled – Designated Area-sponsored

139.1 Interpretation

139.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree has the meaning given in subregulation 2.26A (6).

designated area means an area specified by an instrument in writing under item 6701 in Schedule 6 as a designated area.

diploma has the meaning given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For **relevant assessing authority** and **skilled occupation**, see regulation 1.03.

Note 2 For **vocational English**, see regulation 1.15B.

139.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

139.21 Criteria to be satisfied at time of application

139.211 Application must be made before 1 July 2006.

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- 139.211A The applicant has 1 of the following relationships to a person (the *sponsor*) who has turned 18 and is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen:
- (a) a parent;
 - (b) a child or a step-child who is not a dependent child of the sponsor;
 - (c) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
 - (d) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
 - (e) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
 - (f) a grandchild or first cousin.
- 139.212 The applicant is sponsored by the sponsor.
- 139.213 The sponsor:
- (a) is resident in a designated area; and
 - (b) was resident in one or other of the designated areas throughout the period of 12 months immediately before Immigration receives the relevant sponsorship (except for short absences for the purposes of business or recreation).
- 139.215 The applicant is less than 45 years of age.
- 139.216 The applicant has nominated a skilled occupation in his or her application.
- 139.217 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:
- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 6 months in the period of 12 months immediately before the day on which the application was made; or
 - (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the

period of 18 months immediately before the day on which the application was made.

- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and

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- (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.
- 139.218 Despite clauses 139.215, 139.216 and 139.217, the applicant satisfies the criteria in each of those clauses if the applicant's spouse or de facto partner is an applicant for a Subclass 139 visa who satisfies each of those criteria.

139.22 Criteria to be satisfied at time of decision

- 139.221 The sponsorship referred to in clause 139.212 has been approved by the Minister and is still in force.
- 139.222 The sponsor is still resident in a designated area.
- 139.224 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
- 139.225 (1) The skills of the applicant for the nominated skilled occupation have been assessed by the relevant assessing authority as suitable for that occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.

- 139.225A (1) The applicant has been employed in a skilled occupation:
- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least 6 months in the 12 months immediately before the day when the application was made; or
 - (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for at least 12 months in the 18 months immediately before the day when the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;

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- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.
- 139.225B In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:
- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.
- 139.226 Either the applicant has vocational English, or:
- (a) he or she has proficiency in English of at least the standard required for the award of 10 points for the

- language skill factor of the general points test specified in item 6311 of Schedule 6; and
- (b) his or her sponsor lives in a State or Territory specified by an instrument in writing for this paragraph as a State or Territory in which arrangements are established for suitable English-language training for applicants to whom this paragraph applies; and
 - (c) the Minister is satisfied that he or she has paid any fee or charge for that training.
- 139.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128B (3) (c) of Schedule 1 is false or misleading in a material particular.
- 139.228 Despite clauses 139.224, 139.225, 139.225A, 139.225B, 139.226 and 139.227, the applicant satisfies the criteria in each of those clauses if:
- (a) the applicant satisfied the criteria in clause 139.218 at the time of application; and
 - (b) the applicant's spouse or de facto partner continues to satisfy the criteria in each of clauses 139.215, 139.216 and 139.217; and
 - (c) the applicant's spouse or de facto partner satisfies the criteria in each of clauses 139.224, 139.225, 139.225A, 139.225B, 139.226 and 139.227.
- 139.229 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 139.230 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 139.231 Each member of the family unit of the applicant who is an applicant for a Subclass 139 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

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- 139.232 Each member of the family unit of the applicant who is not an applicant for a Subclass 139 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 139.233 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 139.234 Approval of the application would not result in either:
- (a) the number of Subclass 139 visas granted in a financial year exceeding the maximum number of Subclass 139 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 139) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 139.235 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

139.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

139.31 Criteria to be satisfied at time of application

- 139.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 139.21.
- 139.312 The sponsorship referred to in clause 139.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

139.32 Criteria to be satisfied at time of decision

- 139.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 139 visa.
- 139.322 The sponsorship referred to in clause 139.312 has been approved by the Minister and is still in force.
- 139.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 139.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 139.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 139.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

139.4 Circumstances applicable to grant

- 139.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

139.5 When visa is in effect

139.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

139.6 Conditions

139.611 First entry must be made before a date specified by the Minister for the purpose.

139.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

139.613 Condition 8515 may be imposed.

139.7 Way of giving evidence

139.711 No evidence need be given.

139.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 143 Contributory Parent

143.1 Interpretation

143.111 In this Part, a reference to an applicant who is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa means a person:

- (a) who, at the time of application, holds a Subclass 173 (Contributory Parent (Temporary)) visa; or
- (b) who has held a Subclass 173 (Contributory Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
- (c) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to have been the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of the application.

Note Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent visa and settled are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5 (1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

143.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

143.21 Criteria to be satisfied at time of application

143.211 The applicant is:

- (a) a parent of a person (the *child*) who is:
 - (i) a settled Australian citizen; or
 - (ii) a settled Australian permanent resident; or
 - (iii) a settled eligible New Zealand citizen; or
- (b) a person who:
 - (i) either:
 - (A) is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; or
 - (B) both:
 - (I) was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and
 - (II) is the holder of a substituted Subclass 676 visa at the time of application; and
 - (ii) is no longer the parent of a child described in paragraph (a) because the child has died; and
 - (iii) is not the parent of another child described in paragraph (a).

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- 143.212 (1) The applicant is:
- (a) sponsored in accordance with subclause (2) or (3); or
 - (b) taken, under subclause (4), to be sponsored in accordance with this clause.
- (2) If the child has turned 18, the applicant is sponsored by:
- (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if that spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
- (a) the child's cohabiting spouse, if that spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) is a close relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a close relative or guardian of the child's spouse; and

- (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (d) a community organisation.
- (4) The applicant is taken to be sponsored in accordance with this clause if:
- (a) the applicant:
 - (i) is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; or
 - (ii) both:
 - (A) was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; and
 - (B) is the holder of a substituted Subclass 676 visa at the time of application; and
 - (b) the person who sponsored the applicant for the Subclass 173 (Contributory Parent (Temporary)) visa dies before the Subclass 173 (Contributory Parent (Temporary)) visa ceases to be in effect; and
 - (c) there is no other sponsor available who could meet the requirements set out in subclause (2) or (3).

- 143.213 For an applicant who, at the time of application, is neither:
- (a) the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; nor
 - (b) the holder of a substituted Subclass 676 visa;
- the applicant satisfies the balance of family test.

143.22 Criteria to be satisfied at time of decision

- 143.221 The applicant continues to meet the requirements set out in clause 143.211.

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- 143.222 If a sponsorship of the kind mentioned in subclause 143.212 (2) or (3) was in force in relation to the applicant at the time of application, a sponsorship of that kind, approved by the Minister, is in force in relation to:
- (a) the sponsor at the time of application; or
 - (b) another sponsor who meets the requirements set out in subclause 143.212 (2) or (3);
- whether or not the sponsor was the sponsor at the time of application.
- Note* The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in subclause 143.212 (2) or (3).
- 143.222A If clause 143.222 does not apply:
- (a) the applicant was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application; and
 - (b) a sponsor of the applicant who usually resides in Australia dies before a decision is made to grant, or to refuse to grant, the Subclass 143 (Contributory Parent) visa; and
 - (c) there is no other sponsor available who meets the requirements set out in subclause 143.212 (2) or (3).
- 143.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002 and 4003; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 143.225 If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

	Item	If the applicant was ...	the public interest criteria to be satisfied by the applicant are ...
	1	not the holder of a substituted Subclass 676 visa at the time of application	4004, 4005, 4009 and 4010
	2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 173 visa, such health checks as the Minister considers appropriate
143.226	If the applicant was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.		
143.227	If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.		
143.228	The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.		
143.229	If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is an applicant for a Subclass 143 (Contributory Parent) visa:		
	(a)	must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and	
	(b)	if the member of the family unit has previously been in Australia — must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.	

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4009 and 4010; and (b) either: (i) 4007; or (ii) if the member of the family unit has previously held a Subclass 173 visa — such health checks as the Minister considers appropriate; and (c) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010

143.230 If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is not an applicant for a Subclass 143 (Contributory Parent) visa must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

- 143.231 If a person (the **additional applicant**):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 143.232 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or

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- (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.
- 143.233 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

143.3 Secondary criteria

143.31 Criteria to be satisfied at time of application

- 143.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 143.21.

- 143.312 One of the following applies:
- (a) the sponsorship mentioned in subclause 143.212 (2) or (3) of the person who satisfies the primary criteria includes sponsorship of the applicant;
 - (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 143.212 (4);
 - (c) the applicant is a contributory parent newborn child who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of the application and:
 - (i) the contributory parent newborn child's parent was granted a Subclass 143 (Contributory Parent) visa on the basis of meeting paragraph 143.222 (b); or
 - (ii) the person who sponsored the contributory parent newborn child's parent for the Subclass 143 (Contributory Parent) visa died after that visa was granted.

143.32 Criteria to be satisfied at time of decision

143.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 143 visa.

- 143.322 One of the following applies:
- (a) the sponsorship, mentioned in paragraph 143.222 (a), that includes sponsorship of the applicant:
 - (i) has been approved by the Minister in relation to the applicant; and
 - (ii) is still in force in relation to the applicant;
 - (b) the person who satisfied the primary criteria at the time of decision met the requirements of paragraph 143.222 (b) at the time of decision, and the applicant meets those requirements at the time of decision;
 - (c) the applicant is a contributory parent newborn child who meets the requirements of paragraph 143.312 (c).

- 143.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002 and 4003; and

(b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

143.324 If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 143.321, and the person was ...	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	4004, 4005, 4009 and 4010
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 173 visa, such health checks as the Minister considers appropriate

143.325 For an applicant who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

143.326 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

143.327 The Minister is satisfied that:
(a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or

- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 143.328 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 143.329 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);
the applicant has withdrawn all applications for the review or review proceedings.

143.330 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

143.4 Circumstances applicable to grant

143.411 If the applicant is, at the time of application:

- (a) the holder of a Subclass 173 (Contributory Parent (Temporary)) visa; or
- (b) the holder of a substituted Subclass 676 visa; or
- (c) a member of the family unit of an applicant who holds a substituted subclass 676 visa;

the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

143.412 If clause 143.411 does not apply to the applicant at the time of application, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

143.5 When visa is in effect

143.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years after the date of grant.

143.6 Conditions

143.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.

143.612 Either or both of conditions 8502 and 8515 may be imposed.

143.7 Way of giving evidence

143.711 No evidence need be given.

143.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 151 Former Resident

Note This Subclass applies in relation to an application for a visa made on or after 1 November 2005.

Subclass 151 visas that relate to the former Special Eligibility (Migrant) (Class AR) visa will not be available to applicants who apply on or after 1 November 2005.

151.1 Interpretation

In this Part:

Australian defence service means:

- (a) service in the Military Forces of the Commonwealth under a notice served under section 26 of the *National Service Act 1951* as in force at any time before 26 November 1964; or
- (b) service before 19 January 1981:
 - (i) in the Permanent Forces; or
 - (ii) by a member of the armed forces of a foreign country on secondment to, or duty with, the Permanent Forces if the member was a permanent resident of Australia during the period of service.

defence service applicant means an applicant who satisfies the Minister that he or she:

- (a) has completed at least 3 months continuous Australian defence service; or
- (b) was discharged before completing 3 months of Australian defence service because the applicant was medically unfit for service, or further service, and became medically unfit because of the applicant's Australian defence service.

long residence applicant means an applicant who satisfies the Minister that he or she:

- (a) spent the greater part of his or her life before the age of 18 in the migration zone as an Australian permanent resident; and
- (b) did not at any time acquire Australian citizenship; and
- (c) has maintained business, cultural or personal ties with Australia; and
- (d) has not turned 45 at the time of application.

the Permanent Forces has the same meaning as it has in the *Defence Act 1903*.

151.2 Primary criteria

Note 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.

151.21 Criteria to be satisfied at time of application

151.211 If the applicant is in Australia, either:

- (a) the applicant is the holder of a substantive visa, other than a Subclass 771 (Transit) visa; or
- (b) the applicant:
 - (i) is not the holder of a substantive visa, and immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (ii) satisfies Schedule 3 criterion 3002.

151.212 The applicant is a long residence applicant or a defence service applicant.

151.22 Criteria to be satisfied at time of decision

151.221 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 151.222 If the applicant is a long residence applicant who is outside Australia, the applicant also satisfies public interest criterion 4005.
- 151.223 If the applicant is:
- (a) a long residence applicant who is in Australia; or
 - (b) a defence service applicant;
- the applicant also satisfies public interest criterion 4007.
- 151.224 If the applicant is under 18, the applicant also satisfies public interest criteria 4017 and 4018.
- 151.225 If the applicant is a long residence applicant who is outside Australia:
- (a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4005; and
 - (b) each member of the family unit of the applicant who is an applicant for a Special Eligibility (Class CB) visa is a person who:
 - (i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (ii) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001, 5002 and 5010.
- 151.226 If the applicant is a long residence applicant who is in Australia:
- (a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007, unless the Minister is

satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; and

- (b) each member of the family unit of the applicant who is an applicant for a Special Eligibility (Class CB) visa is a person who:
 - (i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (ii) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (c) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001 and 5002.

151.227 If the applicant is a defence service applicant:

- (a) each member of the family unit of the applicant, who is not an applicant for a Special Eligibility (Class CB) visa, is a person who satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007 unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to criterion 4007; and
- (b) each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa, is a person who:
 - (i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (ii) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

151.227A If the applicant is a defence service applicant who is outside Australia, each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001, 5002 and 5010.

- 151.227B If the applicant is a defence service applicant who is in Australia, each member of the family unit of the applicant, who is an applicant for a Special Eligibility (Class CB) visa and who has previously been in Australia, is a person who satisfies special return criteria 5001 and 5002.
- 151.228 If a person (an *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is also an applicant for a Special Eligibility (Class CB) visa; and
 - (c) has not turned 18;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 151.229 If the applicant:
- (a) is in Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.
- 151.229A If the applicant:
- (a) is outside Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001, 5002 and 5010.
- 151.229B If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 151.229C The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

151.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

151.31 Criteria to be satisfied at time of application

- 151.311 The applicant is a member of the family unit of a person who:
- (a) has applied for a Special Eligibility (Class CB) visa; and
 - (b) on the basis of the information provided in that application, appears to satisfy the criteria in Subdivision 151.21;
- and the Minister has not decided to grant or refuse to grant a visa to the person.

151.32 Criteria to be satisfied at time of decision

- 151.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa.
- 151.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 151.323 If the applicant is a member of the family unit of a person who:
- (a) was a long residence applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; and
 - (b) was outside Australia at the time of the person's application;
- the applicant also satisfies public interest criterion 4005.
- 151.324 If the applicant is a member of the family unit of a person who:
- (a) was a long residence applicant in Australia who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa; or

- (b) was a defence service applicant who, having satisfied the primary criteria in this Part, is the holder of a Subclass 151 visa;
- the applicant also satisfies public interest criterion 4007.
- 151.325 If the applicant has not turned 18, the applicant also satisfies public interest criteria 4017 and 4018.
- 151.326 If the applicant:
- (a) is in Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.
- 151.327 If the applicant:
- (a) is outside Australia; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criterion 5001, 5002 and 5010.
- 151.328 If the Minister has requested an assurance of support in relation to the person who satisfied the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 151.329 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

151.4 Circumstances applicable to grant

151.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

151.412 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

151.5 When visa is in effect

151.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

151.6 Conditions

151.611 For an applicant who was outside Australia at the time of application:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8502 may be imposed.

Note No conditions have been prescribed for other applicants.

151.7 Way of giving evidence

151.711 No evidence need be given.

151.712 If evidence is given, to be given by way of visa label affixed to a valid passport.

Subclass 155 Five Year Resident Return

155.1 Interpretation

Note *Australian permanent resident* is defined in regulation 1.03.

155.2 Primary criteria

Note All applicants must meet the primary criteria.

155.21 Criteria to be satisfied at time of application

155.211 The applicant:

- (a) is an Australian permanent resident; or
- (b) was an Australian citizen but has subsequently lost or renounced Australian citizenship; or
- (c) is a former Australian permanent resident, other than a former Australian permanent resident whose most recent permanent visa was cancelled.

155.212 (1) The applicant meets the requirements of subclause (2), (3), (3A) or (4).

(2) The applicant meets the requirements of this subclause if the applicant was lawfully present in Australia for a period of, or periods that total, not less than 2 years in the period of 5 years immediately before the application for the visa and, during that time, the applicant:

- (a) was:
 - (i) the holder of a permanent visa or a permanent entry permit; or
 - (ii) an Australian citizen; and
- (b) was not the holder of:
 - (i) a temporary visa (other than a Subclass 773 Border visa, Subclass 956 Electronic Travel Authority (Business Entrant — Long Validity) visa, Subclass 976 Electronic Travel Authority (Visitor) visa or Subclass 977 Electronic Travel Authority (Business Entrant — Short Validity) visa held concurrently with the permanent visa or the permanent entry permit); or
 - (ii) a bridging visa.

(3) The applicant meets the requirements of this subclause if the applicant is outside Australia, and the Minister is satisfied that the applicant has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia, and the applicant:

- (a) has not been absent from Australia for a continuous period of 5 years or more immediately before the

application for the visa, unless there are compelling reasons for the absence, and the applicant:

- (i) holds a permanent visa; or
 - (ii) last departed Australia as an Australian permanent resident; or
 - (iii) last departed Australia as an Australian citizen, but has subsequently lost or renounced Australian citizenship; or
- (b) was an Australian citizen, or an Australian permanent resident, less than 10 years before the application, and has not been absent from Australia for a period of, or periods that total, more than 5 years in the period from the date that the applicant last departed Australia as an Australian citizen or Australian permanent resident to the date of the application, unless there are compelling reasons for the absence.

(3A) The applicant meets the requirements of this subclause if the applicant is in Australia, and the Minister is satisfied that the applicant:

- (a) has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia; and
- (b) has not been absent from Australia for a continuous period of 5 years or more since:
 - (i) the date of grant of the applicant's most recent permanent visa, unless there are compelling reasons for the absence; or
 - (ii) the date on which the applicant ceased to be a citizen, unless there are compelling reasons for the absence.

(4) The applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person who:

- (a) has been granted a Subclass 155 visa and that visa is still in effect; or
- (b) meets the requirements of subclause (2), (3) or (3A) and has lodged either:

- (i) a combined application for a Return (Residence) (Class BB) visa with the applicant; or
- (ii) a separate application for a Return (Residence) (Class BB) visa.

Note The period of a visa granted under paragraph 155.212 (4) (a) can be no greater than the period of the Subclass 155 visa granted to the other family member, and mentioned in paragraph 155.212 (4) (a): see clause 155.511.

155.22 Criteria to be satisfied at time of decision

155.221 If the application is made outside Australia, the applicant satisfies special return criterion 5001.

155.222 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

155.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

155.4 Circumstances applicable to grant

155.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

155.412 If the application is made in Australia, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

155.5 When visa is in effect

155.511 Permanent visa permitting the holder to travel to and enter Australia for:

- (a) if paragraph 155.212 (4) (a) applies to the applicant:

-
- (i) the period of the Subclass 155 visa mentioned in paragraph 155.212 (4) (a); or
 - (ii) a shorter period determined by the Minister; or
- (b) if:
- (i) the visa is granted pursuant to an Internet application; and
 - (ii) the applicant met the requirements of clause 155.211 and subclause 155.212 (2) at the time of application;
- a period of 5 years from the date of grant; or
- (c) in any other case:
- (i) a period of 5 years from the date of the grant; or
 - (ii) a shorter period determined by the Minister.

155.6 Conditions: Nil.

155.7 Way of giving evidence

155.711 No evidence need be given.

155.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 157 Three Month Resident Return

157.1 Interpretation

Note *Australian permanent resident* is defined in regulation 1.03.

157.2 Primary criteria

Note All applicants must satisfy the primary criteria.

157.21 Criteria to be satisfied at time of application

157.211 The applicant:

- (a) is an Australian permanent resident; or

- (b) was an Australian citizen but has subsequently lost or renounced Australian citizenship; or
 - (c) is a former Australian permanent resident, other than a former Australian permanent resident whose most recent permanent visa was cancelled.
- 157.212 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if the applicant:
- (a) was lawfully present in Australia for a period of, or periods that total, not less than 1 day but less than 2 years in the period of 5 years immediately before the application for the visa and, during that time, the applicant:
 - (i) was:
 - (A) the holder of a permanent visa or a permanent entry permit; or
 - (B) an Australian citizen; and
 - (ii) was not the holder of:
 - (A) a temporary visa (other than a Subclass 773 Border visa, Subclass 956 Electronic Travel Authority (Business Entrant — Long Validity) visa, Subclass 976 Electronic Travel Authority (Visitor) visa or Subclass 977 Electronic Travel Authority (Business Entrant — Short Validity) visa held concurrently with the permanent visa or the permanent entry permit); or
 - (B) a bridging visa; and
 - (b) either:
 - (i) has compelling and compassionate reasons for departing Australia; or
 - (ii) if outside Australia, had compelling and compassionate reasons for his or her last departure from Australia.

- (3) The applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person who:
- (a) has been granted a Subclass 157 visa and that visa is still in effect; or
 - (b) meets the requirements of subclause (2) and has lodged either:
 - (i) a combined application for a Return (Residence) (Class BB) visa with the applicant; or
 - (ii) a separate application for a Return (Residence) (Class BB) visa.

157.213 If the applicant is outside Australia, the applicant has not been absent from Australia for a continuous period of more than 3 months immediately before making the application for the visa, unless the Minister is satisfied that there are compelling and compassionate reasons for the absence.

157.22 Criteria to be satisfied at time of decision

157.221 If the application is made outside Australia, the applicant satisfies special return criterion 5001.

157.222 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

157.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

157.4 Circumstances applicable to grant

157.411 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

157.412 If the application is made in Australia, the applicant must be in Australia, but not in immigration clearance, at time of grant.

157.5 When visa is in effect

157.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 3 months from the date of grant.

157.6 Conditions: Nil.

157.7 Evidence of grant

157.711 No evidence need be given.

157.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 159 Provisional Resident Return

159.1 Interpretation

Note *Australian permanent resident* is defined in regulation 1.03.

159.2 Primary criteria

Note All applicants must satisfy the primary criteria.

159.21 Criteria to be satisfied at time of application

159.211 The applicant claims, but is unable to prove, that immediately before going overseas he or she was:

- (a) an Australian permanent resident; or
- (b) an Australian citizen who was usually resident in Australia.

159.212 If the applicant could prove that claim, the applicant would satisfy the criteria for the grant of a Subclass 155 or 157 visa.

159.212A The Minister is satisfied that the applicant is not an Australian citizen.

159.213 The applicant gives the Minister a written statement that satisfies the Minister that:

- (a) the applicant has urgent and compelling reasons for travelling to Australia before proving the claim; and
- (b) entry of the applicant to Australia before the claim is proved will not prejudice the interests of Australia; and
- (c) there are reasonable grounds for believing that the claim can be proved.

159.22 Criteria to be satisfied at time of decision

159.221 There is no evidence that the applicant does not satisfy special return criteria 5001, 5002 and 5010.

159.222 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

159.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

159.4 Circumstances applicable to grant

159.411 The applicant must be outside Australia when the visa is granted.

159.5 When visa is in effect

159.511 Temporary visa permitting the holder to travel to and enter Australia once only within 3 months of grant and to remain in Australia for 3 months.

159.6 Conditions

159.611 The holder must travel to and enter Australia within 3 months of grant of the visa.

159.7 Way of giving evidence

159.711 No evidence need be given.

159.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 160 Business Owner (Provisional)

160.1 Interpretation

Note 1 *appropriate regional authority, AUD, fiscal year, ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 There are no interpretation provisions specific to this Part.

160.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

160.21 Criteria to be satisfied at time of application

160.211 The applicant has overall had a successful business career.

160.212 For at least 2 of the 4 fiscal years immediately before the application is made:

- (a) the net value of the assets of:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or

-
- (iii) the applicant and his or her spouse or de facto partner together;
in a qualifying business or qualifying businesses in which the applicant had an ownership interest was at least AUD200 000; and
- (b) if a qualifying business mentioned in paragraph (a) was operated by a publicly listed company, the shareholding of:
- (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together;
- was at least 10% of the total issued capital of the company.
- 160.213 For at least 2 of the 4 fiscal years immediately before the application is made, the applicant's main business, or the applicant's main businesses together, had an annual turnover of at least AUD500 000.
- 160.214 (1) The business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
- (a) have a net value of at least AUD500 000; and
 - (b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 160 visa.
- (2) The applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the Minister is satisfied are of a sufficient net value to settle in Australia.
- 160.215 The applicant is less than 45 years old.
- 160.216 The applicant has vocational English within the meaning given by regulation 1.15B.
- 160.217 If the applicant was engaged, for at least 2 of the 4 fiscal years immediately before the application is made, in a business providing professional, technical or trade services, the applicant was directly engaged in the provision of the

services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.

160.218 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

160.219 The applicant has notified the appropriate regional authority of a State or Territory of:

- (a) the applicant's business history; and
- (b) the applicant's intention to develop a business in that State or Territory.

160.219A The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 160 visa:

- (a) either:
 - (i) to establish a qualifying business in Australia; or
 - (ii) to participate in an existing qualifying business in Australia; and
- (b) to maintain a substantial ownership interest in that business; and
- (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

160.219B The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.

160.219C The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 160 visa.

160.22 Criteria to be satisfied at time of decision

160.221 The applicant continues to satisfy the criteria in clauses 160.211, 160.214, 160.218, 160.219A and 160.219B.

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- 160.222 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 160.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 160.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 160 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (aa) if the member had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 160 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.
- 160.225 If a person:
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.
- 160.226 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and

- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

160.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

160.31 Criteria to be satisfied at time of application

- 160.311 The applicant is a member of the family unit of a person who:
- (a) satisfies the primary criteria in Subdivision 160.21; or
 - (b) holds a Subclass 160 visa.

160.32 Criteria to be satisfied at time of decision

- 160.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 160 visa.

- 160.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 160.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

- 160.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 160.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

160.4 Circumstances applicable to grant

- 160.411 (1) If the applicant:
- (a) satisfies the secondary criteria; and
 - (b) holds a student visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.
- (2) In any other case, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

160.5 When visa is in effect

- 160.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

160.6 Conditions

- 160.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.
- 160.612 If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

160.7 Way of giving evidence

- 160.711 No evidence need be given.
- 160.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 161 Senior Executive (Provisional)

161.1 Interpretation

161.111 In this Part:

major business means a business (other than a government business enterprise) the annual turnover of which was at least AUD50 000 000 for at least 2 of the 4 fiscal years immediately before the application is made.

Note 1 appropriate regional authority, AUD, fiscal year, ownership interest and *qualifying business* are defined in regulation 1.03.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

161.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

161.21 Criteria to be satisfied at time of application

161.211 The applicant has overall had a successful business career.

161.212 For a total of at least 2 years in the 4 years immediately before the application is made, the applicant:

- (a) occupied a position in the 3 highest levels of the management structure of a major business; and
- (b) was responsible for strategic policy development affecting a major component or a wide range of operations of that major business.

161.213 (1) The business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

- (a) have a net value of at least AUD500 000; and
- (b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 161 visa to the applicant.

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- (2) The applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the Minister is satisfied are of a sufficient net value to settle in Australia.
- 161.214 The applicant is less than 45 years old.
- 161.215 The applicant has vocational English within the meaning given by regulation 1.15B.
- 161.216 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.
- 161.217 The applicant has notified the appropriate regional authority of a State or Territory of:
- (a) the applicant's business history; and
 - (b) the applicant's intention to develop a business in that State or Territory.
- 161.218 The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 161 visa:
- (a) either:
 - (i) to establish a qualifying business in Australia; or
 - (ii) to participate in an existing qualifying business in Australia; and
 - (b) to maintain a substantial ownership interest in that business; and
 - (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.
- 161.219 The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.
- 161.219A The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 161 visa.

161.22 Criteria to be satisfied at time of decision

- 161.221 The applicant continues to satisfy the criteria in clauses 161.211, 161.213, 161.216, 161.218 and 161.219.
- 161.222 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 161.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 161.224
- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 161 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (aa) if the member had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
 - (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 161 visa:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.
- 161.225 If a person:
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

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- 161.226 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

161.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

161.31 Criteria to be satisfied at time of application

- 161.311 The applicant is a member of the family unit of a person who:
- (a) satisfies the primary criteria in Subdivision 161.21; or
 - (b) holds a Subclass 161 visa.

161.32 Criteria to be satisfied at time of decision

- 161.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 161 visa.
- 161.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 161.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 161.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 161.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and

- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

161.4 Circumstances applicable to grant

- 161.411 (1) If the applicant:
- (a) satisfies the secondary criteria; and
 - (b) holds a student visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.
- (2) In any other case, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

161.5 When visa is in effect

- 161.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

161.6 Conditions

- 161.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.
- 161.612 If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

161.7 Way of giving evidence

- 161.711 No evidence need be given.
- 161.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 162 Investor (Provisional)

162.1 Interpretation

162.111 In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for this Part.

eligible investment, for a person, means:

- (a) an ownership interest in a business; or
- (b) a loan to a business; or
- (c) cash on deposit; or
- (d) stocks and bonds; or
- (e) real estate; or
- (f) gold or silver bullion;

that is owned by the person for the purpose of producing a return by way of income or capital gain and is not held for personal use.

Note 1 *appropriate regional authority, AUD, fiscal year, ownership interest* and *qualifying business* are defined in regulation 1.03.

Note 2 As to beneficial ownership of an asset, eligible investment or ownership interest, see regulation 1.11A.

162.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

162.21 Criteria to be satisfied at time of application

162.211 The applicant has demonstrated overall a successful record of eligible investment activity or qualifying business activity.

162.212 (1) The applicant has had a total of at least 3 years experience of direct involvement in managing 1 or more qualifying businesses or eligible investments.

- (2) Throughout at least 1 of the 5 fiscal years immediately before the application is made:
- (a) the applicant maintained direct involvement in managing a qualifying business in which:
 - (i) the applicant; or
 - (ii) the applicant and his or her spouse or de facto partner together;had an ownership interest of at least 10% of the total value of the business; or
 - (b) the applicant maintained direct involvement in managing eligible investments of:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together;the total net value of which was at least AUD1 500 000.
- (3) Throughout the 2 fiscal years immediately before the application is made, the net value of the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, was at least AUD2 250 000.
- 162.213 The applicant has demonstrated a high level of management skill in relation to an eligible investment or qualifying business activity.
- 162.214 The applicant is less than 45 years old.
- 162.215 The applicant has vocational English within the meaning given by regulation 1.15B.
- 162.216 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.
- 162.217 The applicant has notified the appropriate regional authority of a State or Territory of:
- (a) the applicant's business and investment history; and
 - (b) the applicant's intention to lodge a designated investment in that State or Territory.

162.218 The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 162 visa, to continue to maintain business or investment activity in Australia after the designated investment made by the applicant, or by the applicant and his or her spouse or de facto partner, has matured.

162.219 The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 162 visa.

162.22 Criteria to be satisfied at time of decision

162.221 The applicant continues to satisfy the criteria in clauses 162.211, 162.213, 162.216 and 162.218.

162.222 (1) The applicant has made a designated investment of an amount of AUD1 500 000 in the name of the applicant or in the names of the applicant and his or her spouse or de facto partner.

(2) The Minister is satisfied that the funds mentioned in subclause (1) were:

- (a) legally owned by:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together; and
- (b) unencumbered; and
- (c) accumulated from the qualifying business or eligible investment activities of:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together.

162.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 162.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 162.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 162 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (aa) if the member had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 162 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.
- 162.226 If a person:
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.
- 162.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

162.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

162.31 Criteria to be satisfied at time of application

- 162.311 The applicant is a member of the family unit of a person who:
- (a) satisfies the primary criteria in Subdivision 162.21; or
 - (b) holds a Subclass 162 visa.

162.32 Criteria to be satisfied at time of decision

- 162.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 162 visa.
- 162.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 162.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 162.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 162.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

162.4 Circumstances applicable to grant

- 162.411 (1) If the applicant:
- (a) satisfies the secondary criteria; and
 - (b) holds a student visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.
- (2) In any other case, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

162.5 When visa is in effect

- 162.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

162.6 Conditions

- 162.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.
- 162.612 If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

162.7 Way of giving evidence

- 162.711 No evidence need be given.
- 162.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 163 State/Territory Sponsored Business Owner (Provisional)

163.1 Interpretation

163.111 In this Part:

senior manager means a person who:

- (a) has:
 - (i) either:
 - (A) appropriate formal qualifications, obtained as a result of at least 3 years full time study (or part time equivalent); or
 - (B) at least 5 years appropriate experience; and
 - (ii) been employed for at least 3 years (not counting experience mentioned in sub-subparagraph (i) (B)) in the kind of employment to which the qualifications or experience mentioned in subparagraph (i) relates; and
- (b) has a sound and continuous employment record, for at least 3 of the 5 years immediately before the application is made, in a position or positions in a qualifying business or businesses requiring the occupant to:
 - (i) make decisions about how the whole or a substantial part of the activities of the business is to be managed; and
 - (ii) take responsibility for the day to day running of the business or part of the business; and
 - (iii) if appropriate to the structure of the business, have management responsibilities over other functional managers; and
- (c) if required under Australian law to be registered or licensed — is so registered or licensed.

Note 1 *appropriate regional authority*, *AUD*, *fiscal year*, *ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

163.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

163.21 Criteria to be satisfied at time of application

163.211 The applicant has overall had a successful business career.

163.212 The applicant:

- (a) has, for at least 2 of the 4 fiscal years immediately before the application is made, had an ownership interest in a main business or businesses that had an annual turnover of at least AUD300 000; or
- (b) is a senior manager.

163.213 (1) The business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

- (a) have a net value of at least AUD250 000 that is available for the conduct or establishment of a business in Australia; and
- (b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 163 visa.

(2) The applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the appropriate regional authority is satisfied are of a sufficient net value to settle in Australia.

163.214 The applicant:

- (a) is less than 55 years old; or
- (b) is proposing to establish or participate in a business that the appropriate regional authority has determined is of exceptional economic benefit to the State or Territory where the authority is located.

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- 163.215 If the applicant was engaged, for at least 2 of the 4 fiscal years immediately before the application is made, in a business providing professional, technical or trade services, the applicant was directly engaged in the provision of the services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.
- 163.216 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.
- 163.217 The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 163 visa:
- (a) either:
 - (i) to establish a qualifying business in Australia; or
 - (ii) to participate in an existing qualifying business in Australia; and
 - (b) to maintain a substantial ownership interest in that business; and
 - (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.
- 163.218 The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.
- 163.219 The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 163 visa.
- 163.22 Criteria to be satisfied at time of decision**
- 163.221 The applicant continues to satisfy the criteria in clauses 163.211, 163.213 and 163.216 to 163.218.
- 163.222 (1) The applicant is sponsored by an appropriate regional authority.

- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.
- 163.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 163.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 163.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 163 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (aa) if the member had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 163 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.
- 163.226 If a person:
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

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- 163.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

163.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

163.31 Criteria to be satisfied at time of application

- 163.311 The applicant is a member of the family unit of a person who:
- (a) satisfies the primary criteria in Subdivision 163.21; or
 - (b) holds a Subclass 163 visa.

163.32 Criteria to be satisfied at time of decision

- 163.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 163 visa.
- 163.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 163.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 163.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 163.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and

- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

163.4 Circumstances applicable to grant

- 163.411 (1) If the applicant:
- (a) satisfies the secondary criteria; and
 - (b) holds a student visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.
- (2) In any other case, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

163.5 When visa is in effect

- 163.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

163.6 Conditions

- 163.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.
- 163.612 If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

163.7 Way of giving evidence

- 163.711 No evidence need be given.
- 163.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 164 State/Territory Sponsored Senior Executive (Provisional)

164.1 Interpretation

164.111 In this Part:

major business means a business (other than a government business enterprise) the annual turnover of which was at least AUD10 000 000 in at least 2 of the 4 fiscal years immediately before the application is made.

Note 1 *appropriate regional authority, AUD, fiscal year, ownership interest* and *qualifying business* are defined in regulation 1.03.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

164.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

164.21 Criteria to be satisfied at time of application

164.211 The applicant has overall had a successful business career.

164.212 For a total of at least 2 years in the 4 years immediately before the application is made, the applicant:

- (a) occupied a position in the 3 highest levels of the management structure of a major business; and
- (b) was responsible for strategic policy development affecting a major component or a wide range of operations of that major business.

164.213 (1) The business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

- (a) have a net value of at least AUD250 000 that is available for the conduct or establishment of a business in Australia; and

- (b) are lawfully acquired and available for transfer, and capable of being transferred, to Australia within 2 years after the grant of a Subclass 164 visa to the applicant.
 - (2) The applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, have business and personal assets, in addition to the assets mentioned in subclause (1), that the appropriate regional authority is satisfied are of a sufficient net value to settle in Australia.
- 164.214 The applicant:
- (a) is less than 55 years old; or
 - (b) is proposing to establish or participate in a business that the appropriate regional authority has determined is of exceptional economic benefit to the State or Territory where the authority is located.
- 164.215 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.
- 164.216 The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 164 visa:
- (a) either:
 - (i) to establish a qualifying business in Australia; or
 - (ii) to participate in a qualifying business in Australia;and
 - (b) to maintain a substantial ownership interest in that business; and
 - (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.
- 164.217 The applicant demonstrates that there is a need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business activity.

164.218 The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 164 visa.

164.22 Criteria to be satisfied at time of decision

164.221 The applicant continues to satisfy the criteria in clauses 164.211, 164.213 and 164.215 to 164.217.

164.222 (1) The applicant is sponsored by an appropriate regional authority.

(2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

164.223 The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and

(b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

164.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

164.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 164 visa:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and

(aa) if the member had turned 18 at the time of application — satisfies public interest criterion 4019; and

(b) if the member has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 164 visa:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.

164.226 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

164.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

164.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

164.31 Criteria to be satisfied at time of application

164.311 The applicant is a member of the family unit of a person who:

- (a) satisfies the primary criteria in Subdivision 164.21; or
- (b) holds a Subclass 164 visa.

164.32 Criteria to be satisfied at time of decision

164.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 164 visa.

164.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

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- 164.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 164.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 164.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

164.4 Circumstances applicable to grant

- 164.411 (1) If the applicant:
- (a) satisfies the secondary criteria; and
 - (b) holds a student visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.
- (2) In any other case, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

164.5 When visa is in effect

- 164.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

164.6 Conditions

- 164.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.
- 164.612 If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

164.7 Way of giving evidence

164.711 No evidence need be given.

164.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 165 State/Territory Sponsored Investor (Provisional)

165.1 Interpretation

165.111 In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for this Part.

eligible investment, for a person, means:

- (a) an ownership interest in a business; or
- (b) a loan to a business; or
- (c) cash on deposit; or
- (d) stocks and bonds; or
- (e) real estate; or
- (f) gold or silver bullion;

that is owned by the person for the purpose of producing a return by way of income or capital gain and is not held for personal use.

Note 1 appropriate regional authority, AUD, fiscal year, ownership interest and qualifying business are defined in regulation 1.03.

Note 2 As to beneficial ownership of an asset, eligible investment or ownership interest, see regulation 1.11A.

165.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

165.21 Criteria to be satisfied at time of application

165.211 The applicant has demonstrated overall a successful record of eligible investment activity or qualifying business activity.

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- 165.212 (1) The applicant has had a total of at least 3 years experience of direct involvement in managing 1 or more qualifying businesses or eligible investments.
- (2) Throughout at least 1 of the 5 fiscal years immediately before the application is made:
- (a) the applicant maintained direct involvement in managing a qualifying business in which:
- (i) the applicant; or
- (ii) the applicant and his or her spouse or de facto partner together;
- had an ownership interest of at least 10% of the total value of the business; or
- (b) the applicant maintained direct involvement in managing eligible investments of:
- (i) the applicant; or
- (ii) the applicant's spouse or de facto partner; or
- (iii) the applicant and his or her spouse or de facto partner together;
- the total net value of which was at least AUD750 000.
- (3) Throughout the 2 fiscal years immediately before the application is made, the net value of the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, was at least AUD1 125 000.
- 165.213 The applicant has demonstrated a high level of management skill in relation to the eligible investment or qualifying business activity.
- 165.214 The applicant:
- (a) is less than 55 years old; or
- (b) is proposing to establish or participate in business or investment activity that the appropriate regional authority has determined is of exceptional economic benefit to the State or Territory where the authority is located.

165.215 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

165.216 The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 165 visa, to continue to maintain business or investment activity in Australia after the designated investment made by the applicant, or by the applicant and his or her spouse or de facto partner, has matured.

165.217 The applicant has signed a declaration that the applicant understands his or her obligations as the holder of a Subclass 165 visa.

165.22 Criteria to be satisfied at time of decision

165.221 The applicant continues to satisfy the criteria in clauses 165.211, 165.213, 165.215 and 165.216.

165.222 (1) The applicant has made a designated investment of an amount of AUD750 000, in the name of the applicant or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsored the applicant is located.

(2) The Minister is satisfied that the funds mentioned in subclause (1) were:

- (a) legally owned by:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner, or
 - (iii) the applicant and his or her spouse or de facto partner together; and
- (b) unencumbered; and
- (c) accumulated from the qualifying business or eligible investment activities of:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together.

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- 165.223 (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.
- 165.224 The applicant has a genuine intention to reside, for at least 2 years, in the State or Territory where he or she has lodged the designated investment.
- 165.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 165.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 165.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 165 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (aa) if the member had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the member has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 165 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.
- 165.228 If a person:
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and

- (c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied in relation to the person.

165.229 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

165.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

165.31 Criteria to be satisfied at time of application

165.311 The applicant is a member of the family unit of a person who:

- (a) satisfies the primary criteria in Subdivision 165.21; or
- (b) holds a Subclass 165 visa.

165.32 Criteria to be satisfied at time of decision

165.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 165 visa.

165.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

165.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

165.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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- 165.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

165.4 Circumstances applicable to grant

- 165.411 (1) If the applicant:
- (a) satisfies the secondary criteria; and
 - (b) holds a student visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.
- (2) In any other case, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

165.5 When visa is in effect

- 165.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

165.6 Conditions

- 165.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified by the Minister for the purpose.
- 165.612 If the applicant is outside Australia when the visa is granted, either or both of conditions 8502 and 8515 may be imposed.

165.7 Way of giving evidence

- 165.711 No evidence need be given.
- 165.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 173 Contributory Parent (Temporary)

173.1 Interpretation

Note *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent visa* and *settled* are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5 (1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

173.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

173.21 Criteria to be satisfied at time of application

173.211 The applicant is a parent of a person (the *child*) who is:

- (a) a settled Australian citizen; or
- (b) a settled Australian permanent resident; or
- (c) a settled eligible New Zealand citizen.

173.212 (1) The applicant is sponsored in accordance with subclause (2) or (3).

(2) If the child has turned 18, the applicant is sponsored by:

- (a) the child; or
- (b) the child's cohabiting spouse or de facto partner, if that spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.

(3) If the child has not turned 18, the applicant is sponsored by:

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- (a) the child's cohabiting spouse, if that spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) is a close relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a close relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (d) a community organisation.

173.213 The applicant satisfies the balance of family test.

173.22 Criteria to be satisfied at time of decision

173.221 The applicant continues to satisfy the criterion in clause 173.211.

173.222 A sponsorship of the kind mentioned in clause 173.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 173.212.

- 173.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 173.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 173.226 Each member of the family unit of the applicant who is an applicant for a Subclass 173 (Contributory Parent (Temporary)) visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 173.227 Each member of the family unit of the applicant who is not an applicant for a Subclass 173 (Contributory Parent (Temporary)) visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion.
- 173.228 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 173.229 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:

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- (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

173.230 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

173.3 Secondary criteria

173.31 Criteria to be satisfied at time of application

- 173.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 173.21.
- 173.312 A sponsorship of the kind mentioned in clause 173.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant.

173.32 Criteria to be satisfied at time of decision

- 173.321 Unless the applicant is a contributory parent newborn child, the applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa.
- 173.322 A sponsorship of the kind mentioned in clause 173.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.
- 173.322A A contributory parent newborn child is taken to be sponsored if:
- (a) the contributory parent newborn child's parent is taken to be sponsored in accordance with subclause 143.212 (4); or
 - (b) the following criteria apply in relation to the contributory parent newborn child's parent:
 - (i) the parent is the holder of a Subclass 143 (Contributory Parent) visa at the time of the contributory parent newborn child's application;

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- (ii) the person who sponsored the parent for the Subclass 143 (Contributory Parent) visa has died; or
 - (c) the following criteria apply in relation to the contributory parent newborn child's parent:
 - (i) at the time of the contributory parent newborn child's application, the parent is the holder of:
 - (A) a Subclass 173 (Contributory Parent (Temporary)) visa; or
 - (B) a bridging visa, and the last substantive visa held by that parent was a Subclass 173 (Contributory Parent (Temporary)) visa;
 - (ii) the person who sponsored the parent for the Subclass 173 (Contributory Parent (Temporary)) visa has died.
- 173.323 If the applicant is not a contributory parent newborn child, the applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 173.324 If the applicant:
- (a) is not a contributory parent newborn child; and
 - (b) has previously been in Australia;
- the applicant satisfies special return criteria 5001, 5002 and 5010.
- 173.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 173.326 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:

- (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.
- 173.327 If the applicant is a contributory parent newborn child, the applicant has undergone any health checks that the Minister considers appropriate.
- 173.328 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

173.4 Circumstances applicable to grant

173.411 If the applicant is not a contributory parent newborn child, the applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

173.412 If the applicant is a contributory parent newborn child, the applicant may be in or outside Australia when the visa is granted.

173.5 When visa is in effect

173.511 If the applicant is not a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia for 2 years from a date specified by the Minister for the purpose.

173.512 If the applicant is a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

173.6 Conditions

173.611 First entry must be made before a date specified by the Minister for the purpose.

173.612 Either or both of conditions 8502 and 8515 may be imposed.

173.7 Way of giving evidence

173.711 No evidence need be given.

173.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 175 Skilled — Independent

175.1 Interpretation

175.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

diploma has the same meaning as in subregulation 2.26A (6).

employed has the same meaning as in subregulation 2.26A (7).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 2 Regulation 1.03 provides that *competent English* has the meaning set out in regulation 1.15C.

Note 3 For *registered course*, see regulation 1.03.

Note 4 For *relevant assessing authority*, see regulation 1.03.

Note 5 For *skilled occupation*, see regulation 1.03.

175.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

175.21 Criteria to be satisfied at time of application

175.211 Either:

- (a) the applicant has been employed in a skilled occupation for at least 12 months in the period of 24 months ending immediately before the day on which the application was made; or
- (b) both of the following:
 - (i) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made;

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- (ii) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.
- 175.212 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.
- 175.213 The applicant has competent English.
- 175.22 Criteria to be satisfied at time of decision**
- 175.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.
- Note* That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.
- The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).
- 175.222 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1135 of Schedule 1; or
 - (b) to obtain the skills assessment mentioned in subclause 175.212 (1); or
 - (c) to satisfy Subdivision 175.21; or
 - (d) to satisfy clause 175.221;
- was false or misleading in a material particular.
- 175.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and

- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 175.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 175.225 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 175 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- 175.226 Each member of the family unit of the applicant, who is not an applicant for a Subclass 175 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 175.227 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant; public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 175.228 Grant of the visa would not result in either:
- (a) the number of Subclass 175 visas granted in a financial year exceeding the maximum number of Subclass 175 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or

- (b) the number of visas of particular classes (including Subclass 175) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

175.229 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

175.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

175.31 Criteria to be satisfied at time of application

175.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 175.21 and made a combined application with that person.

175.32 Criteria to be satisfied at time of decision

175.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 175 visa.

175.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

175.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

175.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

175.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

175.4 Circumstances applicable to grant

175.411 If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special Category) visa, each applicant included in the application may be in or outside Australia when the visa is granted.

175.412 In any other case, each applicant included in the application must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

175.5 When visa is in effect

175.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

175.6 Conditions

175.611 If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and
- (c) condition 8515 may be imposed.

175.7 Way of giving evidence

175.711 No evidence need be given.

175.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 176 Skilled — Sponsored

176.1 Interpretation

176.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

diploma has the same meaning as in subregulation 2.26A (6).

employed has the same meaning as in subregulation 2.26A (7).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 2 Regulation 1.03 provides that *competent English* has the meaning set out in regulation 1.15C.

Note 3 For *registered course*, see regulation 1.03.

Note 4 For *relevant assessing authority*, see regulation 1.03.

Note 5 For *skilled occupation*, see regulation 1.03.

176.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

176.21 Criteria to be satisfied at time of application

176.211 Either:

- (a) the applicant has been employed in a skilled occupation for at least 12 months in the period of 24 months ending immediately before the day on which the application was made; or
- (b) the following requirements are met:
 - (i) the applicant satisfied the Australian study requirement in the period of 6 months ending

immediately before the day on which the application was made;

- (ii) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

176.212 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.

(2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.

176.213 The applicant has competent English.

176.22 Criteria to be satisfied at time of decision

176.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).

176.222 (1) The requirements of subclause (2) or (3) are met.

(2) All of the following apply:

- (a) the applicant has been nominated by a State or Territory government agency;
- (b) the Minister has accepted the nomination.

(3) All of the following apply:

- (a) the applicant, and all persons included in the application, are sponsored by a person who:
 - (i) has turned 18; and

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- (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is also an applicant for a Subclass 176 visa), as:
 - (A) a parent; or
 - (B) a child or a step-child; or
 - (C) a brother or sister, an adoptive brother or sister, or a step-brother or step-sister; or
 - (D) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle; or
 - (E) a nephew or niece, an adoptive nephew or niece, or a step-nephew or step-niece;
 - (b) either:
 - (i) the sponsorship was made on Form 1277 (Internet), and the Minister has accepted the sponsorship; or
 - (ii) if the sponsorship was made on Form 1277 — the sponsorship was made:
 - (A) by posting the form (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this sub-subparagraph; or
 - (B) by having the form delivered by a courier service to the address specified by the Minister in an instrument in writing for this sub-subparagraph;
- and the Minister has accepted the sponsorship.

- 176.223 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1135 of Schedule 1; or
 - (b) to obtain the skills assessment mentioned in subclause 176.212 (1); or

- (c) to satisfy Subdivision 176.21; or
 - (d) to satisfy clause 176.221;
was false or misleading in a material particular.
- 176.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 176.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 176.226 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 176 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- 176.227 Each member of the family unit of the applicant, who is not an applicant for a Subclass 176 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 176.228 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied for the additional applicant.

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- 176.229 Grant of the visa would not result in either:
- (a) the number of Subclass 176 visas granted in a financial year exceeding the maximum number of Subclass 176 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 176) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.
- 176.230 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

176.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

176.31 Criteria to be satisfied at time of application

- 176.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 176.21 and made a combined application with that person.

176.32 Criteria to be satisfied at time of decision

- 176.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 176 visa.
- 176.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and

(b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

176.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

176.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

176.325 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

176.4 Circumstances applicable to grant

176.411 If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special Category) visa, each applicant included in the application may be in or outside Australia when the visa is granted.

176.412 In any other case, each applicant included in the application must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

176.5 When visa is in effect

176.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

176.6 Conditions

176.611 If the applicant is outside Australia when the visa is granted:

(a) first entry must be made before a date specified by the Minister for the purpose; and

(b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and

- (c) condition 8515 may be imposed.

176.7 Way of giving evidence

- 176.711 No evidence need be given.
176.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 200 Refugee

200.1 Interpretation

Note *member of the family unit* and *member of the immediate family* are defined in regulation 1.03.

- 200.111 In this Part:

relevant Minister means any of the following:

- (a) the Attorney-General;
- (b) the Minister for Defence;
- (c) the Minister for Foreign Affairs;
- (d) the Minister for Home Affairs;
- (e) the Minister for Immigration and Citizenship.

Subclass 200 visa means:

- (a) a Subclass 200 (Refugee) visa; or
- (b) a Class 200 (refugee) visa within the meaning of the Migration (1993) Regulations; or
- (c) a refugee visa (code number 200) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

200.2 Primary criteria

Note The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

200.21 Criteria to be satisfied at time of application

- 200.211 (1) The applicant:
- (a) is subject to persecution in the applicant's home country and is living in a country other than the applicant's home country; or
 - (aa) meets the requirements of subclause (1A); or
 - (b) meets the requirements of subclause (2).
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called *the proposer*) who is, or has been, the holder of a Subclass 200 visa; and
 - (aa) the application is made within 5 years of the grant of that visa; and
 - (b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and
 - (c) the applicant continues to be a member of the immediate family of the proposer; and
 - (d) before the grant of that visa, that relationship was declared to Immigration.
- (1A) The applicant meets the requirements of this subclause if:
- (a) the Minister has specified, in an instrument in writing, one or more classes of persons for this paragraph; and
 - (b) a relevant Minister has certified that the applicant is:
 - (i) in one of those classes; and
 - (ii) at risk of harm for a reason, or reasons, that relate to the applicant being in that class of persons.
- (1B) Before making the instrument mentioned in paragraph (1A) (a), the Minister must consult:
- (a) the Prime Minister; and
 - (b) the Minister for Finance and Deregulation; and

- (c) any other relevant Minister that has an interest in the specification of that class of persons or that is affected by the specification.

200.22 Criteria to be satisfied at time of decision

- 200.221 The applicant continues to satisfy the criterion in clause 200.211.
- 200.222 The Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a permanent visa, having regard to:
- (a) the degree of persecution to which the applicant is subject in the applicant's home country; and
 - (b) the extent of the applicant's connection with Australia; and
 - (c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from persecution; and
 - (d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.
- 200.223 The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.
- 200.224 The Minister is satisfied that permanent settlement in Australia:
- (a) is the appropriate course for the applicant; and
 - (b) would not be contrary to the interests of Australia.
- 200.225 Grant of the visa would not result in either:
- (a) the number of Subclass 200 visas granted in a financial year exceeding the maximum number of Subclass 200 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 200) granted in a financial year exceeding the maximum number of visas of those classes, as

determined by Gazette Notice, that may be granted in that financial year.

- 200.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 200.227 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.
- 200.228 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 200.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 200 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criterion 5001.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 200 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

200.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

200.31 Criteria to be satisfied at time of application

200.311 The applicant:

- (a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraphs 200.211 (1) (a) or (aa); or
- (b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 200.211 (1) (b).

200.32 Criteria to be satisfied at time of decision

200.321 The applicant:

- (a) continues to be a member of the family unit of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of either paragraph 200.211 (1) (a) or (aa)), is the holder of a Subclass 200 visa; or
- (b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 200.211 (1) (b)), is the holder of a Subclass 200 visa.

200.322 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

200.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (aa) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (b) if the applicant has previously been in Australia, satisfies special return criterion 5001.

200.4 Circumstances applicable to grant

200.411 The applicant must be outside Australia when the visa is granted.

200.5 When visa is in effect

200.511 Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

200.6 Conditions

200.611 Entry must be made before the date specified by the Minister for the purpose.

200.612 Condition 8502 may be imposed.

200.7 Way of giving evidence

200.711 No evidence need be given.

200.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 201 In-country Special Humanitarian

201.1 Interpretation

Note member of the family unit and member of the immediate family are defined in regulation 1.03.

201.111 In this Part:

relevant Minister means any of the following:

- (a) the Attorney-General;
- (b) the Minister for Defence;
- (c) the Minister for Foreign Affairs;
- (d) the Minister for Home Affairs;
- (e) the Minister for Immigration and Citizenship.

Subclass 201 visa means:

- (a) a Subclass 201 (In-country Special Humanitarian) visa;
or
- (b) a Class 201 (in-country special humanitarian) visa within the meaning of the Migration (1993) Regulations; or
- (c) an in-country special humanitarian program visa (code number 201) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

201.2 Primary criteria

Note The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

201.21 Criteria to be satisfied at time of application

- 201.211 (1) The applicant:
- (a) is subject to persecution in the applicant's home country and is living in the applicant's home country; or
 - (aa) meets the requirements of subclause (1A); or
 - (b) meets the requirements of subclause (2).
- (1A) The applicant meets the requirements of this subclause if:
- (a) the Minister has specified, in an instrument in writing, one or more classes of persons for this paragraph; and
 - (b) a relevant Minister has certified that the applicant is:
 - (i) in one of those classes; and
 - (ii) at risk of harm for a reason, or reasons, that relate to the applicant being in that class of persons.
- (1B) Before making the instrument mentioned in paragraph (1A) (a), the Minister must consult:
- (a) the Prime Minister; and

- (b) the Minister for Finance and Deregulation; and
 - (c) any other relevant Minister that has an interest in the specification of that class of persons or that is affected by the specification.
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called *the proposer*) who is, or has been, the holder of a Subclass 201 visa; and
 - (aa) the application is made within 5 years of the grant of that visa; and
 - (b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and
 - (c) the applicant continues to be a member of the immediate family of the proposer; and
 - (d) before the grant of that visa, that relationship was declared to Immigration.

201.22 Criteria to be satisfied at time of decision

201.221 The applicant continues to satisfy the criterion in clause 201.211.

201.222 The Minister is satisfied that there are compelling reasons for giving special consideration to granting to the applicant a permanent visa having regard to:

- (a) the degree of persecution to which the applicant is subject in the applicant's home country; and
- (b) the extent of the applicant's connection with Australia; and
- (c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant's settlement and protection from persecution; and
- (d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

-
- 201.223 The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.
- 201.224 The Minister is satisfied that permanent settlement in Australia:
- (a) is the appropriate course for the applicant; and
 - (b) would not be contrary to the interests of Australia.
- 201.225 Grant of the visa would not result in either:
- (a) the number of Subclass 201 visas granted in a financial year exceeding the maximum number of Subclass 201 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 201 visas, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 201.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 201.227 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.
- 201.228 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 201.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 201 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

- (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criterion 5001.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 201 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

201.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

201.31 Criteria to be satisfied at time of application

201.311 The applicant:

- (a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraphs 201.211 (1) (a) or (aa); or
- (b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 201.211 (1) (b).

201.32 Criteria to be satisfied at time of decision

201.321 The applicant:

- (a) continues to be a member of the family unit of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of either paragraph 201.211 (a) or (aa)), is the holder of a Subclass 201 visa; or

-
- (b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 201.211 (1) (b)), is the holder of a Subclass 201 visa.
- 201.322 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 201.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the applicant has previously been in Australia — satisfies special return criterion 5001.

201.4 Circumstances applicable to grant

- 201.411 The applicant must be outside Australia when the visa is granted.

201.5 When visa is in effect

- 201.511 Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

201.6 Conditions

- 201.611 Entry must be made before the date specified by the Minister for the purpose.
- 201.612 Condition 8502 may be imposed.

201.7 Way of giving evidence

- 201.711 No evidence need be given.
- 201.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 202 Global Special Humanitarian

202.1 Interpretation

Note eligible New Zealand citizen, member of the family unit and member of the immediate family are defined in regulation 1.03.

202.111 In this Part:

special assistance visa means any of the following:

- (a) Burmese in Burma (Special Assistance) (Class AB) visa;
- (b) Burmese in Thailand (Special Assistance) (Class AC) visa;
- (c) Cambodian (Special Assistance) (Class AE) visa;
- (d) Citizens of the Former Yugoslavia (Special Assistance) (Class AI) visa;
- (e) East Timorese in Portugal, Macau or Mozambique (Special Assistance) (Class AM) visa;
- (f) Minorities of the Former USSR (Special Assistance) (Class AV) visa;
- (g) Sudanese (Special Assistance) (Class BD) visa;
- (h) Sri Lankan (Special Assistance) (Class BG) visa;
- (i) Ahmadi (Special Assistance) (Class BJ) visa;
- (j) Vietnamese (Special Assistance) (Class BK) visa.

Subclass 202 visa means:

- (a) a Subclass 202 (Global Special Humanitarian) visa; or
- (b) a Class 202 (global special humanitarian program) visa within the meaning of the Migration (1993) Regulations; or
- (c) a global special humanitarian visa (code number 202) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

Subclass 866 visa means:

- (a) a Subclass 866 (Protection) visa; or

- (b) a Class 817 (protection (permanent)) entry permit within the meaning of the Migration (1993) Regulations; or
- (c) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b).

202.2 Primary criteria

Note The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

202.21 Criteria to be satisfied at time of application

- 202.211
- (1) The applicant:
 - (a) is subject to substantial discrimination, amounting to gross violation of human rights, in the applicant's home country and is living in a country other than the applicant's home country; or
 - (b) meets the requirements of subclause (2).
 - (2) The applicant meets the requirements of this subclause if:
 - (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called *the proposer*); and
 - (b) either:
 - (i) the proposer is, or has been, the holder of a Subclass 202 visa, and the applicant was a member of the immediate family of the proposer on the date of grant of that visa; or
 - (ii) the proposer is, or has been, the holder of a Subclass 866 (Protection) visa, and the applicant was a member of the immediate family of the proposer on the date of application for that visa; or
 - (ia) the proposer is, or has been, the holder of a Resolution of Status (Class CD) visa, and the

applicant was a member of the immediate family of the proposer on the date of application for that visa; or

- (iii) the proposer is, or has been, the holder of a special assistance visa, and the applicant was a member of the immediate family of the proposer on the date of the application for that visa; and
- (ba) the application is made within 5 years of the grant of that visa; and
- (c) the applicant continues to be a member of the immediate family of the proposer; and
- (d) before the grant of that visa, that relationship was declared to Immigration.

202.22 Criteria to be satisfied at time of decision

202.221 The applicant continues to satisfy the criterion in clause 202.211.

202.222 The Minister is satisfied that there are compelling reasons for giving special consideration to granting to the applicant a permanent visa, having regard to:

- (a) the degree of discrimination to which the applicant is subject in the applicant's home country; and
- (b) the extent of the applicant's connection with Australia; and
- (c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant settlement and protection from discrimination; and
- (d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.

202.223 The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.

202.224 The Minister is satisfied that permanent settlement in Australia:

- (a) is the appropriate course for the applicant; and

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- (b) would not be contrary to the interests of Australia.
- 202.225 The applicant is proposed for entry to Australia, in accordance with approved form 681, by:
- (a) a person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (b) a body operating in Australia.
- 202.226 Grant of the visa would not result in either:
- (a) the number of Subclass 202 visas granted in a financial year exceeding the maximum number of Subclass 202 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 202, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 202.227 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.
- 202.228 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 202.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 202 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

- (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criterion 5001.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 202 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

202.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

202.31 Criteria to be satisfied at time of application

202.311 The applicant:

- (a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 202.211 (1) (a); or
- (b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 202.211 (1) (b).

202.312 The proposal made under clause 202.225 in respect of the relevant person who satisfies the primary criteria includes the applicant.

202.32 Criteria to be satisfied at time of decision

202.321 The applicant:

- (a) continues to be a member of the family unit of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 202.211 (1) (a)), is the holder of a Subclass 202 visa; or

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- (b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 202.211 (1) (b)), is the holder of a Subclass 202 visa.
- 202.322 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 202.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) if the applicant has previously been in Australia — satisfies special return criterion 5001.

202.4 Circumstances applicable to grant

- 202.411 The applicant must be outside Australia when the visa is granted.

202.5 When visa is in effect

- 202.511 Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

202.6 Conditions

- 202.611 Entry must be made before the date specified by the Minister for the purpose.
- 202.612 Condition 8502 may be imposed.

202.7 Way of giving evidence

- 202.711 No evidence need be given.
- 202.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 203 Emergency Rescue

203.1 Interpretation

Note *member of the family unit* and *member of the immediate family* are defined in regulation 1.03.

203.111 In this Part:

Subclass 203 visa means:

- (a) a Subclass 203 (Emergency Rescue) visa; or
- (b) a Class 203 (emergency rescue) visa within the meaning of the Migration (1993) Regulations; or
- (c) an emergency rescue visa (code number 203) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

203.2 Primary criteria

Note The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

203.21 Criteria to be satisfied at time of application

203.211 (1) The applicant:

- (a) is subject to persecution in the applicant's home country, whether the applicant is living in the applicant's home country or in another country; or
- (b) meets the requirements of subclause (2).

(2) The applicant meets the requirements of this subclause if:

- (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called ***the proposer***) who is, or has been, the holder of a Subclass 203 visa; and

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- (aa) the application is made within 5 years of the grant of that visa; and
 - (b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and
 - (c) the applicant continues to be a member of the immediate family of the proposer; and
 - (d) before the grant of that visa, that relationship was declared to Immigration.

203.22 Criteria to be satisfied at time of decision

- 203.221 The applicant continues to satisfy the criterion in clause 203.211.
- 203.222 The Minister is satisfied that there are compelling reasons for giving special consideration to granting to the applicant a permanent visa, having regard to:
- (a) the degree of persecution to which the applicant is subject in the applicant's home country; and
 - (b) the extent of the applicant's connection with Australia; and
 - (c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant settlement and protection from persecution; and
 - (d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.
- 203.223 The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.
- 203.224 The Minister is satisfied that:
- (a) there are urgent and compelling reasons for the applicant to travel to Australia; and
 - (b) permanent settlement in Australia:
 - (i) is the appropriate course for the applicant; and
 - (ii) would not be contrary to the interests of Australia.

- 203.225 Grant of the visa would not result in either:
- (a) the number of Subclass 203 visas granted in a financial year exceeding the maximum number of Subclass 203 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 203, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 203.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 203.227 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.
- 203.228 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 203.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 203 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criterion 5001.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 203 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

203.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

203.31 Criteria to be satisfied at time of application

203.311 The applicant:

- (a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 203.211 (1) (a); or
- (b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 203.211 (1) (b).

203.32 Criteria to be satisfied at time of decision

203.321 The applicant:

- (a) continues to be a member of the family unit of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 203.211 (1) (a)), is the holder of a Subclass 203 visa; or
- (b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 203.211 (1) (b)), is the holder of a Subclass 203 visa.

203.322 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

203.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and

- (b) if the applicant has previously been in Australia — satisfies special return criterion 5001.

203.4 Circumstances applicable to grant

- 203.411 The applicant must be outside Australia when the visa is granted.

203.5 When visa is in effect

- 203.511 Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

203.6 Conditions

- 203.611 Entry must be made before the date specified by the Minister for the purpose.
- 203.612 Condition 8502 may be imposed.

203.7 Way of giving evidence

- 203.711 No evidence need be given.
- 203.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 204 Woman at Risk

204.1 Interpretation

Note member of the family unit and member of the immediate family are defined in regulation 1.03.

- 204.111 In this Part:

Subclass 204 visa means:

- (a) a Subclass 204 (Woman at Risk) visa; or
- (b) a Class 204 (woman at risk) visa within the meaning of the Migration (1993) Regulations; or
- (c) a woman at risk visa (code number 204) within the meaning of the Migration (1989) Regulations; or

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- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

204.2 Primary criteria

Note The primary criteria must be satisfied by all applicants except certain applicants who are members of the family unit, or members of the immediate family, of certain applicants who satisfy the primary criteria. Those other applicants need satisfy only the secondary criteria.

204.21 Criteria to be satisfied at time of application

- 204.211 (1) The applicant:
- (a) is a female person who is:
 - (i) subject to persecution or registered as being of concern to the United Nations High Commissioner for Refugees; and
 - (ii) living in a country other than her home country; or
 - (b) is a person who meets the requirements of subclause (2).
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant's entry to Australia has been proposed in accordance with approved form 681 by an Australian citizen or an Australian permanent resident (in this subclause called *the proposer*) who is, or has been, the holder of a Subclass 204 visa; and
 - (aa) the application is made within 5 years of the grant of that visa; and
 - (b) on the date of grant of that visa, the applicant was a member of the immediate family of the proposer; and
 - (c) the applicant continues to be a member of the immediate family of the proposer; and
 - (d) before the grant of that visa, that relationship was declared to Immigration.
- 204.212 (1) The spouse or de facto partner of the applicant is not prohibited by subclause (2) from proposing the applicant's entry to Australia.

- (2) For subclause (1), the spouse or de facto partner is prohibited from proposing the applicant's entry to Australia if:
- (a) the spouse or de facto partner is a woman who was granted a Subclass 204 visa within the 5 years immediately preceding the application; and
 - (b) on the date of grant of that visa:
 - (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
 - (ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.

204.22 Criteria to be satisfied at time of decision

- 204.221 The applicant continues to satisfy the criterion in clause 204.211.
- 204.222 If the applicant meets the requirements of paragraph 204.211 (1) (a), the Minister is satisfied that the applicant does not have the protection of a male relative and is in danger of victimisation, harassment or serious abuse because of her sex.
- 204.222A The Minister is satisfied that permanent settlement in Australia:
- (a) is the appropriate course for the applicant; and
 - (b) would not be contrary to the interests of Australia.
- 204.223 The permanent settlement of the applicant in Australia would be consistent with the regional and global priorities of the Commonwealth in relation to the permanent settlement of persons in Australia on humanitarian grounds.
- 204.224 The Minister is satisfied that there are compelling reasons for giving special consideration to granting to the applicant a permanent visa, having regard to:
- (a) the degree of persecution to which the applicant is subject in the applicant's home country; and

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- (b) the extent of the applicant's connection with Australia; and
- (c) whether or not there is any suitable country available, other than Australia, that can provide for the applicant settlement and protection from persecution; and
- (d) the capacity of the Australian community to provide for the permanent settlement of persons such as the applicant in Australia.
- 204.225 Grant of the visa would not result in either:
- (a) the number of Subclass 204 visas granted in a financial year exceeding the maximum number of Subclass 204 visas, as determined by Gazette Notice, that may be granted in that financial year; or
- (b) the number of visas of particular classes, including Subclass 204 granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 204.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 204.227 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.
- 204.228 If a person (in this clause called the **additional applicant**):
- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 204.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 204 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and

- (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criterion 5001.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 204 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criteria criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

204.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of certain persons who satisfy the primary criteria.

204.31 Criteria to be satisfied at time of application

204.311 The applicant:

- (a) is a member of the family unit of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 204.211 (1) (a); or
- (b) is a member of the immediate family of, and made a combined application with, a person who meets, or has met, the requirements of paragraph 204.211 (1) (b).

204.32 Criteria to be satisfied at time of decision

204.321 The applicant:

- (a) continues to be a member of the family unit of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 204.211 (1) (a)), is the holder of a Subclass 204 visa; or
- (b) continues to be a member of the immediate family of a person who, having satisfied the primary criteria (and, in particular, having met the requirements of paragraph 204.211 (1) (b)), is the holder of a Subclass 204 visa.

204.322 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

204.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (b) if the applicant has previously been in Australia — satisfies special return criterion 5001.

204.4 Circumstances applicable to grant

204.411 The applicant must be outside Australia when the visa is granted.

204.5 When visa is in effect

204.511 Permanent visa permitting the holder to travel to and enter Australia within 5 years of grant.

204.6 Conditions

204.611 Entry must be made before a date specified by the Minister for the purpose.

204.612 Condition 8502 may be imposed.

204.7 Way of giving evidence

204.711 No evidence need be given.

204.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 300 Prospective Marriage

300.1 Interpretation

300.111 In this Part:

prospective spouse means the Australian citizen, Australian permanent resident or eligible New Zealand citizen referred to in clause 300.211.

the parties means the applicant and the prospective spouse.

woman-at-risk visa means:

- (a) a Subclass 204 (Woman at Risk) visa; or
- (b) a Class 204 (woman at risk) visa within the meaning of the Migration (1993) Regulations; or
- (c) a woman at risk visa (code number 204) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

Note *eligible New Zealand citizen* and *guardian* are defined in regulation 1.03, and *parent* is defined in subsection 5 (1) of the Act (also see regulation 1.14A).

300.2 Primary criteria

Note 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.

300.21 Criteria to be satisfied at time of application

300.211 The applicant intends to marry a person who is:

- (a) an Australian citizen; or
- (b) an Australian permanent resident; or
- (c) an eligible New Zealand citizen.

300.212 (1) The prospective spouse of the applicant is not prohibited by subclause (2) from being a sponsor.

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- (2) The prospective spouse is prohibited from being a sponsor if:
- (a) the prospective spouse is a woman who was granted a woman-at-risk visa within the 5 years immediately preceding the application; and
 - (b) on the date of grant of that visa:
 - (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
 - (ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.
- 300.213 The applicant is sponsored by:
- (a) if the prospective spouse has turned 18 — the prospective spouse; or
 - (b) if the prospective spouse has not turned 18 — a person who:
 - (i) is:
 - (A) an Australian citizen; or
 - (B) an Australian permanent resident; or
 - (C) an eligible New Zealand citizen; and
 - (ii) is a parent or guardian of the prospective spouse; and
 - (iii) has turned 18.
- 300.214 The parties have met and are known to each other personally.
- 300.215 The applicant establishes:
- (a) that the parties genuinely intend to marry; and
 - (b) that the marriage is intended by the parties to take place within the visa period.
- 300.216 The Minister is satisfied that the parties genuinely intend to live together as spouses.

300.22 Criteria to be satisfied at time of decision

300.221 The applicant continues to satisfy the criteria in clause 300.211 and clauses 300.214 to 300.216.

300.221A Subject to clause 300.221B, there is no impediment to the marriage in Australian law.

300.221B (1) If the applicant or the prospective spouse is under 18:
(a) the Minister is satisfied that the applicant or the prospective spouse, as the case requires, is due to turn 18 before the end of the period within which the intended marriage is to take place; or
(b) a Judge or magistrate has made an order under section 12 of the *Marriage Act 1961* authorising the applicant to marry the prospective spouse, or the prospective spouse to marry the applicant, as the case requires, and that order is in force.

(2) If paragraph (1) (b) applies, the Minister is satisfied that the marriage will take place.

Note Under s 12 (5) of the *Marriage Act 1961*, an order made under section 12 of that Act ceases to be in force 3 months after it is made, if the marriage contemplated by the order has not taken place.

300.222 The sponsorship of the applicant under clause 300.213 has been approved by the Minister and is still in force.

Note For limitations on the Minister's discretion to approve sponsorships, see regulations 1.20J and 1.20KA.

300.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

300.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

300.225 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

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- 300.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 300 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 300 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 300.227 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 300.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

300.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

300.31 Criteria to be satisfied at time of application

- 300.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in clauses 300.211 to 300.212 and 300.214 to 300.216.
- 300.312 The sponsorship referred to in clause 300.213 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

300.32 Criteria to be satisfied at time of decision

- 300.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 300 visa.
- 300.322 The sponsorship referred to in clause 300.312 has been approved by the Minister and is still in force.
- 300.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 300.324 If the applicant has previously been in Australia, the applicant satisfies the special return criteria 5001 and 5002.
- 300.325 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 300.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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- 300.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

300.4 Circumstances applicable to grant

- 300.411 (1) Subclause (2) applies to an applicant who:
- (a) holds a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; and
 - (b) has applied for a Prospective Marriage (Temporary) (Class TO) visa.
- (2) The applicant must be:
- (a) in Australia, but not in immigration clearance; or
 - (b) outside Australia;
- when the visa is granted.
- 300.412 In any other case, the applicant must be outside Australia when the visa is granted.

300.5 When visa is in effect

- 300.511 Temporary visa permitting the holder to travel to, enter and remain in Australia for 9 months from date of grant.

300.6 Conditions

- 300.611 First entry must be made before a date specified by the Minister for the purpose.
- 300.612 If the applicant satisfies the primary criteria, conditions 8515 and 8519.
- 300.613 If the applicant satisfies the primary criteria, condition 8502 may be imposed.

300.614 If the applicant satisfies the secondary criteria, condition 8520.

300.615 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8515 may be imposed.

300.7 Way of giving evidence

300.711 No evidence need be given.

300.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 302 Emergency (Permanent Visa Applicant)

302.1 Interpretation

302.111 (1) In this Part:

principal visa, in relation to an applicant for a Subclass 302 visa, means the visa for which he or she originally applied.

remaining criteria, in relation to an applicant for, or holder of, a Subclass 302 visa, means:

- (a) the public interest criteria (except public interest criteria 4015, 4016, 4017 and 4018); and
- (b) the criteria requiring, or providing for the Minister to request, an assurance of support;

applicable to the class of permanent entry visa for which the applicant originally applied that have not been satisfied at the time of his or her application for a Subclass 302 visa.

(2) In subclause (1), a reference to an applicant for a Subclass 302 visa is a reference to an applicant for an Emergency (Temporary) (Class TI) visa who is also an applicant for a permanent visa of a class for which applications must be made outside Australia.

302.2 Primary criteria

Note 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.

302.21 Criteria to be satisfied at time of application

- 302.211 (1) If the application is made outside Australia:
- (a) the principal visa is a permanent visa of a class for which applications must be made outside Australia; and
 - (b) the applicant has satisfied all of the criteria for the grant of the principal visa other than the remaining criteria.

Note One of the primary criteria for the grant of a permanent visa is that all members of the family unit satisfy the relevant public interest criteria. Therefore, the applicant who must satisfy the primary criteria for the permanent visa can satisfy those criteria only if he or she and all members of the family unit satisfy the remaining criteria.

- 302.212 If the applicant is in Australia, the applicant is the holder of a Subclass 302 visa, and has not yet satisfied the remaining criteria.

302.22 Criteria to be satisfied at time of decision

- 302.221 The applicant continues to satisfy the criterion in clause 302.211.
- 302.222 If the application is made outside Australia, the Minister is satisfied that the applicant has urgent and compelling reasons for travelling to Australia before the remaining criteria have been satisfied.
- 302.223 If the application is made in Australia, the Minister is satisfied that it was not possible for the applicant to satisfy the remaining criteria before the expiry of the period specified in the Subclass 302 visa held by the applicant.
- 302.224 If the application is made in Australia, the Minister is satisfied that it would be unreasonable to require the person to leave Australia.

- 302.225 The Minister is satisfied that it is likely that the remaining criteria will be satisfied by the applicant and all members of the applicant's family unit after entry to Australia or during a further period of temporary stay in Australia.
- 302.226 The Minister is satisfied that the entry to, or continued stay in Australia of, the applicant before the remaining criteria have been satisfied would not be contrary to the interests of Australia.
- 302.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

302.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

302.31 Criteria to be satisfied at time of application

- 302.311 The applicant is a member of the family unit of, and has made a combined application with, a person who satisfies or has satisfied the primary criteria in Subdivision 302.21.
- 302.312 If the application is made in Australia, the applicant has substantially complied with the conditions to which the visa held by the applicant was granted.

302.32 Criteria to be satisfied at time of decision

- 302.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 302 visa.

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- 302.322 If the application is lodged outside Australia:
- (a) the principal visa is a permanent visa of a class for which applications must be lodged outside Australia; and
 - (b) the applicant:
 - (i) has satisfied all criteria for the grant of that visa; or
 - (ii) has satisfied all criteria for the grant of that visa other than the remaining criteria.
- 302.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 302.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

302.4 Circumstances applicable to grant

- 302.411 If the application is made outside Australia, the applicant must be outside Australia at time of grant.
- 302.412 If the application is made in Australia, the applicant must be in the migration zone at time of grant.

302.5 When visa is in effect

- 302.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

302.6 Conditions

- 302.611 Condition 8301 or 8302 may be imposed.
- 302.612 Any other condition may be imposed that could be applied to the principal visa.

302.7 Way of giving evidence

302.711 No evidence need be given.

302.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 303 Emergency (Temporary Visa Applicant)

303.1 Interpretation

303.111 In this Part:

principal visa, in relation to an applicant for a Subclass 303 visa, means the visa referred to in paragraph 303.212 (a); and

remaining criteria, in relation to an applicant for a Subclass 303 visa, means the criteria referred to in paragraph 303.212 (b) as not having been satisfied.

303.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of a family unit. Members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

303.21 Criteria to be satisfied at time of application

303.211 The applicant is not an Australian permanent resident.

303.212 The applicant:

(a) is:

(i) an applicant for a visa of one of the following classes:

(A) Business (Temporary) (Class TB);

(B) Cultural/Social (Temporary) (Class TE);

(C) Domestic Worker (Temporary) (Class TG);

(D) Educational (Temporary) (Class TH);

(E) Expatriate (Temporary) (Class TJ);

(F) Family Relationship (Temporary) (Class TL);

(G) Interdependency (Temporary) (Class TM);

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- (H) Medical Practitioner (Temporary) (Class UE);
 - (I) Retirement (Temporary) (Class TQ);
 - (J) Student (Temporary) (Class TU);
 - (K) Supported Dependant (Temporary) (Class TW);
 - (L) Working Holiday (Temporary) (Class TZ);
 - (M) Partner (Provisional) (Class UF);
 - (N) Prospective Marriage (Temporary) (Class TO); or
 - (ii) an applicant for a Temporary Business Entry (Class UC) visa who seeks a visa to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of more than 3 months; and
- (b) has satisfied all of the criteria for the grant of that visa other than:
- (i) public interest criteria; or
 - (ii) criteria that can be satisfied only after the applicant has entered Australia.
- 303.213 If the application is made in the migration zone, either:
- (a) the applicant is the holder of a Subclass 303 visa; or
 - (b) the applicant is not the holder of a substantive visa, and:
 - (i) the last substantive visa held was of a kind specified in paragraph (a); and
 - (ii) the applicant satisfies whichever of Schedule 3 criteria 3002, 3004 and 3005 applies to the principal visa.
- 303.22 Criteria to be satisfied at time of decision**
- 303.221 (1) The applicant seeks, by request to the Minister in accordance with subclause (2), to travel to Australia before the remaining criteria (except those listed in clause 303.227) have been satisfied.
- (2) The request referred to in subclause (1):
- (a) must be in writing; and

- (b) must include a written statement of the applicant's urgent and compelling reasons for travelling to Australia before the remaining criteria have been satisfied.
- 303.222 The Minister, on consideration of the request referred to in clause 303.221, is satisfied that the applicant has urgent and compelling reasons for travelling to Australia before the remaining criteria are satisfied for the purposes of granting the principal visa.
- 303.223 The Minister is satisfied that the applicant's entry to Australia before the remaining criteria have been satisfied would not be contrary to the interests of Australia.
- 303.224 The Minister is satisfied that the applicant is reasonably likely to satisfy the remaining criteria for the purposes of granting the principal visa after the applicant's entry to Australia.
- 303.225 If the application was made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 303.226 If the application was made in the migration zone:
- (a) the applicant establishes that it was not possible to satisfy the remaining criteria before the visa that he or she holds ceases; and
 - (b) the applicant applies to remain in Australia in circumstances where the remaining criteria have not been satisfied; and
 - (c) the Minister is satisfied that it would be unreasonable to require the applicant to leave Australia.
- 303.227 The applicant satisfies public interest criteria 4012, 4013 and 4014.
- 303.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

303.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

303.31 Criteria to be satisfied at time of application

- 303.311 The applicant is a member of the family unit of a person who has applied for a Subclass 303 visa.
- 303.312 If the application is made outside Australia and the application is made separately from that of the person satisfying the primary criteria:
- (a) the person satisfying the primary criteria is, or is expected soon to be, in Australia; and
 - (b) the applicant intends to stay temporarily in Australia as a member of the family unit of the person satisfying the primary criteria.
- 303.313 If the application is made in the migration zone the applicant has complied substantially with the conditions that apply to:
- (a) any visa held by the applicant; or
 - (b) any visa held by the applicant before becoming an unlawful non-citizen.

303.32 Criteria to be met at time of decision

- 303.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 303 visa.
- 303.322 The person who satisfies the primary criteria produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that person and the applicant.
- 303.323 The applicant:
- (a) has satisfied all criteria for the grant of a visa of one of the classes mentioned in paragraph 303.212 (a); or
 - (b) has satisfied all criteria (including public interest criteria 4012, 4013 and 4014) for the grant of a visa of one of those classes, other than the remaining criteria.

303.324 If the application is made outside Australia and if the applicant has previously been in Australia, satisfies special return criteria 5001 and 5002.

303.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

303.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

303.4 Circumstances applicable to grant

303.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.

303.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

303.5 When visa is in effect

303.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

303.6 Conditions

303.611 Any 1 or more of conditions 8106, 8107, 8301, 8302, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

303.7 Way of giving evidence

303.711 No evidence need be given.

303.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 309 Partner (Provisional)

309.1 Interpretation

309.111 In this Part:

intended spouse means the person referred to in subparagraph 309.211 (3) (a) (i), (ii) or (iii).

woman-at-risk visa means:

- (a) a Subclass 204 (Woman at Risk) visa; or
- (b) a Class 204 (woman at risk) visa within the meaning of the Migration (1993) Regulations; or
- (c) a woman at risk visa (code number 204) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

Note *eligible New Zealand citizen* and *guardian* are defined in regulation 1.03, *parent* is defined in subsection 5 (1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

309.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

309.21 Criteria to be satisfied at time of application

- 309.211
- (1) The applicant meets the requirements of subclause (2) or (3).
 - (2) The applicant meets the requirements of this subclause if the applicant is the spouse or de facto partner of:
 - (a) an Australian citizen; or
 - (b) an Australian permanent resident; or
 - (c) an eligible New Zealand citizen.

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- (3) The applicant meets the requirements of this subclause if:
- (a) the applicant intends to marry:
 - (i) an Australian citizen; or
 - (ii) an Australian permanent resident; or
 - (iii) an eligible New Zealand citizen; and
 - (b) the intended marriage will, if it takes place, be a valid marriage for the purposes of section 12 of the Act.

Note If the applicant is an applicant referred to in subclause 309.211 (3), the marriage must have taken place before the applicant can be granted a visa of this subclass: see clause 309.224.

- 309.212 (1) The spouse, de facto partner or intended spouse of the applicant is not prohibited by subclause (2) from being a sponsor.
- (2) The spouse, de facto partner or intended spouse is prohibited from being a sponsor if:
- (a) the applicant is a male person; and
 - (b) the spouse, de facto partner or intended spouse is a woman who was granted a woman-at-risk visa within the 5 years immediately preceding the application; and
 - (c) on the date of grant of that visa:
 - (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
 - (ii) the applicant was the spouse or de facto partner of that woman and that relationship had not been declared to Immigration.
- 309.213 (1) If the applicant is an applicant referred to in subclause 309.211 (2), the applicant is sponsored:
- (a) if the applicant's spouse or de facto partner has turned 18 — by that spouse or de facto partner; or
 - (b) if the applicant's spouse has not turned 18 — by a parent or guardian of that spouse who:
 - (i) has turned 18; and
 - (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

-
- (2) If the applicant is an applicant referred to in subclause 309.211 (3), the applicant is sponsored:
- (a) if the applicant's intended spouse has turned 18 — by that intended spouse; or
 - (b) if the applicant's intended spouse has not turned 18 — by a parent or guardian of that intended spouse who:
 - (i) has turned 18; and
 - (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

309.22 Criteria to be satisfied at time of decision

- 309.221 The applicant continues to satisfy the criterion in clause 309.211.
- 309.222 The sponsorship referred to in clause 309.213 has been approved by the Minister and is still in force.
- Note* For limitations on the Minister's discretion to approve sponsorships, see regulations 1.20J and 1.20KA.
- 309.223 In the case of an applicant who meets the requirements of subclause 309.211 (2), the applicant continues to be the spouse or de facto partner of the person referred to in paragraph 309.211 (2) (a), (b) or (c) who was the applicant's spouse or de facto partner at the time of the application.
- 309.224 If the applicant is an applicant referred to in subclause 309.211 (3), the marriage referred to in that subclause has taken place and the applicant continues to be the spouse of the intended spouse.
- 309.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 309.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

- 309.227 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 309.228 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 309 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 309 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 309.229 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 309.230 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

309.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

309.31 Criteria to be satisfied at time of application

309.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 309.21.

309.312 The sponsorship referred to in clause 309.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

309.32 Criteria to be satisfied at time of decision

309.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 309 visa.

309.322 The sponsorship referred to in clause 309.312 has been approved by the Minister and is still in force.

Note For limitations on the Minister's discretion to approve sponsorships see regulation 1.20J.

309.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

309.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

309.325 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or

- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

309.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

309.327 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

309.4 Circumstances applicable to grant

309.411 (1) Subclause (2) applies to an applicant who:

- (a) holds a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; and
- (b) has applied for:
 - (i) a Partner (Provisional) (Class UF) visa; or
 - (ii) a Prospective Marriage (Temporary) (Class TO) visa.

(2) The applicant must be:

- (a) in Australia, but not in immigration clearance; or
- (b) outside Australia;

when the visa is granted.

309.412 In any other case, the applicant must be outside Australia at the time of grant.

309.5 When visa is in effect

309.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until the end of the day on which:

- (a) the holder is notified that the holder's application for a Spouse (Migrant) (Class BC) visa or a Partner (Migrant) (Class BC) visa has been decided; or

(b) that application is withdrawn.

309.6 Conditions

- 309.611 First entry must be made before a date specified by the Minister for the purpose.
- 309.612 If the applicant meets the primary criteria, condition 8502 may be imposed.
- 309.613 If the applicant meets the secondary criteria, either or both of conditions 8502 and 8515 may be imposed.

309.7 Way of giving evidence

- 309.711 No evidence need be given.
- 309.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 405 Investor Retirement

405.1 Interpretation

405.111 In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for this Part.

Note For *appropriate regional authority*, see regulation 1.03.

405.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. Any other member of the family unit who is an applicant for a visa of this subclass need satisfy only the secondary criteria.

405.21 Criteria to be satisfied at time of application

Note 1 No criteria to be satisfied at time of application if applicant is outside Australia at that time.

Note 2 The requirements for making a valid application for an Investor Retirement (Class UY) visa are set out in item 1212B of Schedule 1.

- 405.211 If the applicant is in Australia, the applicant:
- (a) must be the holder of a substantive visa; or
 - (b) must:
 - (i) have held a substantive visa since last entering Australia; and
 - (ii) satisfy Schedule 3 criteria 3002, 3004 and 3005.
- 405.22 Criteria to be satisfied at time of decision**
- 405.221 The family unit of the applicant does not include:
- (a) if the applicant has a spouse or de facto partner — any other person dependent on the applicant or the applicant's spouse or de facto partner; or
 - (b) if the applicant does not have a spouse or de facto partner — any person dependent on the applicant.
- 405.222 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 405.223 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 405.224 If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 405.225 The Minister may waive the requirement of clause 405.224 if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 405.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 405.227 (1) This clause applies to an applicant other than an applicant to whom clause 405.228 applies.

(2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A:

- (a) the net value of the applicant's assets, or (if the applicant has a spouse or de facto partner) the combined net value of the assets of the applicant and of his or her spouse or de facto partner, that are available for transfer, and capable of being transferred, to Australia is at least AUD500 000; and
- (b) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD50 000; and
- (c) the applicant has made a designated investment of an amount of at least AUD500 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.

(3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A:

- (a) the net value of the applicant's assets, or (if the applicant has a spouse or de facto partner) the combined net value of the assets of the applicant and of his or her spouse or de facto partner, that are available for transfer, and capable of being transferred, to Australia is at least AUD750 000; and
- (b) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD65 000; and

- (c) the applicant has made a designated investment of an amount of at least AUD750 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.
- (4) The Minister is satisfied that the resources required to satisfy subclause (2) or (3) (being the assets mentioned in paragraph (2) (a) or (3) (a), any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded):
 - (a) are legally owned and lawfully acquired by:
 - (i) the applicant; or
 - (ii) the applicant's spouse or de facto partner; or
 - (iii) the applicant and his or her spouse or de facto partner together; and
 - (b) other than resources relating to inheritance, or to the applicant's, the spouse's or the de facto partner's superannuation or pension — have been held by any combination of:
 - (i) the applicant; and
 - (ii) the applicant's spouse or de facto partner; and
 - (iii) the applicant and his or her spouse or de facto partner together;throughout the 2 years immediately before the application for an Investor Retirement (Class UY) visa is made.
- (5) The Minister is satisfied that the applicant and his or her spouse or de facto partner (if any) have adequate health insurance cover in Australia for the period of:
 - (a) the applicant's intended stay in Australia as the holder of a Subclass 405 visa; and
 - (b) if the applicant has a spouse or de facto partner — the spouse's or de facto partner's intended stay in Australia as the holder of a Subclass 405 visa.
- (6) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014 and 4019.

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- (7) The applicant's spouse or de facto partner (if any) satisfies:
- (a) public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014; and
 - (b) if the applicant's spouse or de facto partner had turned 18 at the time of application — public interest criterion 4019.
- 405.228 (1) This clause applies to an applicant if:
- (a) the applicant is the holder of a Subclass 405 visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.
- (2) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A:
- (a) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD50 000; and
 - (b) the applicant has made and maintained a designated investment of an amount of at least AUD250 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.
- (3) If the appropriate regional authority that sponsors the applicant indicates that the applicant and his or her spouse or de facto partner (if any) do not intend to live in a part of Australia the postcode of which was specified, at the time of application, in the instrument in writing for item 6A1001 of Schedule 6A:
- (a) the applicant has access to, or (if the applicant has a spouse or de facto partner) the applicant and his or her spouse or de facto partner collectively have access to, an annual net income of at least AUD65 000; and

- (b) the applicant has made and maintained a designated investment of an amount of at least AUD500 000, in the applicant's name or in the names of the applicant and his or her spouse or de facto partner, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located.
- (4) The Minister is satisfied that the resources required to satisfy subclause (2) or (3) (being any assets from which the annual income is derived and any rights to the income, and the assets by which the designated investment is funded) are legally owned and lawfully acquired by:
 - (a) the applicant; or
 - (b) the applicant's spouse or de facto partner; or
 - (c) the applicant and his or her spouse or de facto partner together.
- (5) The Minister is satisfied that the applicant and his or her spouse or de facto partner (if any):
 - (a) have had adequate health insurance cover in Australia for the period of:
 - (i) the applicant's stay in Australia as the holder of a Subclass 405 visa; and
 - (ii) if the applicant has a spouse or de facto partner — the spouse's or de facto partner's stay in Australia as the holder of a Subclass 405 visa; and
 - (b) continue to have adequate health insurance cover in Australia for the period of:
 - (i) the applicant's intended stay in Australia as the holder of a Subclass 405 visa; and
 - (ii) if the applicant has a spouse or de facto partner — the spouse's or de facto partner's intended stay in Australia as the holder of a Subclass 405 visa.
- (6) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014 and 4019.

(6A) The applicant's spouse or de facto partner (if any) satisfies:

- (a) public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014; and
- (b) if the applicant's spouse or de facto partner had turned 18 at the time of application — public interest criterion 4019.

(7) The applicant and the applicant's spouse or de facto partner (if any) are free from tuberculosis.

(8) The applicant and the applicant's spouse or de facto partner (if any) are free from a disease or condition that is, or may result in the applicant or the applicant's spouse or de facto partner being, a threat to public health in Australia or a danger to the Australian community.

(9) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment — the applicant has provided such an undertaking.

405.229 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

405.3 Secondary criteria

Note These criteria must be satisfied by any applicant who is a member of the family unit of a person who satisfies the primary criteria.

405.31 Criteria to be satisfied at time of application

405.311 The applicant is the spouse or de facto partner of a person who satisfies the primary criteria for the grant of a Subclass 405 visa.

- 405.312 If the applicant is outside Australia and the application is made separately from that of the applicant's spouse or de facto partner:
- (a) the spouse or de facto partner is, or is expected soon to be, in Australia; and
 - (b) the applicant intends to stay temporarily in Australia with the spouse or de facto partner.

405.32 Criteria to be satisfied at time of decision

- 405.321 The applicant continues to be the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 405 visa.
- 405.322 The applicant continues to satisfy the criteria in clause 405.312.
- 405.323 The family unit of the applicant does not include any person (other than the applicant's spouse or de facto partner) dependent on the applicant or the applicant's spouse or de facto partner.
- 405.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 405.325 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 405.326 If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 405.327 The Minister may waive the requirement of clause 405.326 if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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- 405.328 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 405.329 (1) This clause applies to an applicant other than an applicant to whom clause 405.330 applies.
- (2) The Minister is satisfied that the applicant has adequate health insurance cover in Australia for the period of the applicant's intended stay in Australia as the holder of a Subclass 405 visa.
- (3) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 405.330 (1) This clause applies to an applicant if:
- (a) the applicant is the holder of a Subclass 405 visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Subclass 405 visa.
- (2) The Minister is satisfied that the applicant:
- (a) has had adequate health insurance cover in Australia for the period of the applicant's stay in Australia as the holder of a Subclass 405 visa; and
- (b) continues to have adequate health insurance cover in Australia for the period of the applicant's intended stay in Australia as the holder of a Subclass 405 visa.
- (3) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (4) The applicant is free from tuberculosis.
- (5) The applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community.

(6) If the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment — the applicant has provided such an undertaking.

405.331 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

405.4 Circumstances applicable to grant

405.411 If the applicant was in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

405.412 If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

405.5 When visa is in effect

405.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

405.6 Conditions

405.611 Conditions 8104, 8501 and 8516 must be imposed.

405.612 Any 1 or more of conditions 8301, 8303, 8502, 8522, 8525 and 8526 may be imposed.

405.7 Way of giving evidence

405.711 No evidence need be given.

405.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 410 Retirement

410.1 Interpretation

Note No interpretation provisions specific to this Part.

410.2 Primary criteria

Note 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.

410.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application if applicant is outside Australia at that time.

- 410.211 (1) If the applicant is in Australia, the applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of a Retirement (Temporary) (Class TQ) visa.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was a Retirement (Temporary) (Class TQ) visa; and
 - (c) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

410.22 Criteria to be satisfied at the time of decision

- 410.221 (1) Either:
- (a) the applicant is a person to whom subparagraph 1217 (2) (a) (i) of Schedule 1 applies; or
 - (b) if paragraph (a) does not apply, the applicant satisfies subclauses (2) to (8).
- (2) The applicant has turned 55.

- (3) If the applicant intends to reside in Australia with his or her spouse or de facto partner, the family unit of the applicant does not include any other person dependent on the applicant or the applicant's spouse or de facto partner.
- (4) If the applicant intends to reside in Australia without a spouse or de facto partner, the family unit of the applicant does not include a person dependent on the applicant.
- (5) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- (6) If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- (7) The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- (8) The applicant satisfies this subclause if:
- (a) the applicant and the applicant's spouse or de facto partner (if any) satisfy public interest criteria 4001, 4002, 4003, 4004, 4013, 4014 and 4019; and
 - (b) the applicant and the applicant's spouse or de facto partner (if any) are free from tuberculosis; and
 - (c) the applicant and the applicant's spouse or de facto partner (if any) are free from a disease or condition that is, or may result in the applicant or the applicant's spouse or de facto partner being, a threat to public health in Australia or a danger to the Australian community; and
 - (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment — the applicant has provided such an undertaking.

- 410.222 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

410.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

410.31 Criteria to be satisfied at time of application

410.311 The applicant is the spouse or de facto partner of a person who has applied for a Retirement (Temporary) (Class TQ) visa.

410.312 If the applicant is outside Australia and the application is made separately from that of the applicant's spouse or de facto partner:

- (a) the spouse or de facto partner is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia with the spouse or de facto partner.

410.32 Criteria to be satisfied at the time of decision

- 410.321 (1) Either:
- (a) the applicant is the spouse or de facto partner of a person to whom subparagraph 1217 (2) (a) (i) of Schedule 1 applies; or
 - (b) if paragraph (a) does not apply, the applicant satisfies subclauses (2) to (7).
- (2) The applicant continues to be the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 410 visa.

- (3) The applicant satisfies this subclause if:
- (a) the applicant:
 - (i) satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014; and
 - (ii) satisfies public interest criterion 4019, if he or she had turned 18 at the time of application; and
 - (b) the applicant is free from tuberculosis; and
 - (c) the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
 - (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment — the applicant has provided such an undertaking.
- (5) If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- (6) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- (7) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (8) The Minister may waive the requirements of subclause (7) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

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- 410.322 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

410.4 Circumstances applicable to grant

- 410.411 If the applicant was in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.
- 410.412 If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

410.5 When visa is in effect

- 410.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) in the case of a visa granted to an applicant (other than an applicant mentioned in paragraph 410.221 (1) (a) or 410.321 (1) (a)) — until a date specified by the Minister; or
 - (b) in the case of a visa granted to an applicant to whom subparagraph 1217 (2) (a) (i) of Schedule 1 applies — until the day on which the earlier visa mentioned in that subparagraph would have expired.

410.6 Conditions

- 410.612 Any 1 or more of conditions 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

Note There are no mandatory conditions.

410.7 Way of giving evidence

- 410.711 No evidence need be given.

410.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 411 Exchange

411.1 Interpretation

Note No interpretation provisions specific to this Part.

411.2 Primary criteria

Note 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.

411.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application outside Australia.

411.211 If the application is made in the migration zone, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);

-
- (C) Subclass 457 (Business (Long Stay)); or
- (b) the holder of:
- (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Student (Temporary) (Class TU);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
- (c) the holder of a Confirmatory (Temporary) (Class TD) visa that was granted on the grounds that the applicant satisfied the criteria for a visa specified in paragraph (a) or (b); or
- (d) not the holder of a substantive visa and:
- (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005; or
- (e) not the holder of a substantive visa and:
- (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

411.22 Criteria to be satisfied at time of decision

411.221 If the application is:

- (a) made outside Australia; or
- (b) made in the migration zone by an applicant who does not hold a Subclass 411 visa;

the applicant satisfies the criteria in clauses 411.222 to 411.226.

411.222 If the application relates to a staff exchange, the Minister is satisfied that:

- (a) the exchange position in Australia to which the application relates is a skilled position; and
 - (b) the arrangements envisaged under the exchange would provide a person (in this clause called *the resident*) who is an Australian citizen or an Australian permanent resident with the opportunity to obtain experience with a reciprocating organisation overseas; and
 - (c) the same position as that currently held by the resident, or an equivalent position in Australia, will be available to the resident on the completion of the exchange; and
 - (d) the exchange will be of benefit both to the applicant and the resident.
- 411.223 If the application relates to an agreement between a government in Australia and the government of another country:
- (a) the Minister is satisfied that the application meets the requirements of the agreement; and
 - (b) the applicant has produced evidence that the applicant's stay in Australia under the agreement has been agreed to by the competent authorities in Australia and in the other country.
- 411.224 If the application is made in the migration zone:
- (a) the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa; and
 - (b) if at the time of application, the applicant was the holder of a Student (Temporary) (Class TU) visa:
 - (i) the applicant has successfully completed a course in Australia at Associate Diploma level or above; and
 - (ii) if the applicant is a private subsidised student:
 - (A) the applicant establishes a strong case on economic grounds for the grant of the visa; and
 - (B) the Minister is satisfied that it would not be detrimental to Australia's policies in respect of overseas students to grant the visa.

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- 411.225 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 411.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 411.227 If the application is made in Australia and the applicant was the holder of a Subclass 411 visa at the time of application, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 411 visa.
- 411.228 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 411.229 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

411.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

411.31 Criteria to be satisfied at time of application

- 411.311 The applicant is a member of the family unit of a person who has applied for a Subclass 411 visa.
- 411.312 If the application is made outside Australia and the application is made separately from that of the member of the family unit satisfying the primary criteria:
- (a) that member of the family unit is, or is expected soon to be, in Australia; and
 - (b) that applicant intends to stay temporarily in Australia as a member of the family unit of the person.

411.32 Criteria to be met at time of decision

- 411.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 411 visa.
- 411.322 The member of the family unit who satisfies the primary criteria produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that member of the family unit and the applicant.
- 411.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 411.325 If the application is made outside Australia and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 411.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

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- 411.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 411.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 411.328 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

411.4 Circumstances applicable to grant

- 411.411 If the application is made in the migration zone, the applicant must be in the migration zone at time of grant.
- 411.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

411.5 When visa is in effect

- 411.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

411.6 Conditions

- 411.611 If the applicant meets the primary criteria, condition 8107.

411.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

411.7 Way of giving evidence

411.711 No evidence need be given.

411.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 415 Foreign Government Agency

415.1 Interpretation

415.111 In this Part:

foreign government agency includes an organisation conducted under official auspices in a foreign country and operating in Australia to foster the culture of the foreign country.

415.2 Primary criteria

415.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application outside Australia.

415.211 If the application is made in the migration zone, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);

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- (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or
 - (b) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Tourist (Class TR);
 - (F) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
 - (c) the holder of a Confirmatory (Temporary) (Class TD) visa that was granted on the grounds that the applicant satisfied one of the criteria for a visa specified in paragraph (a) or (b); or
 - (d) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005; or
 - (e) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

415.22 Criteria to be satisfied at time of decision

415.221 If the application is:

- (a) made outside Australia; or
- (b) made in the migration zone by an applicant who does not hold a Subclass 415 visa;

the applicant satisfies the criteria in clauses 415.222 to 415.230.

415.222 The applicant is:

- (a) a person who:
 - (i) seeks to enter Australia to be employed as a representative of a foreign government agency that does not enjoy official status in Australia; and
 - (ii) would not, as a representative of that kind, enjoy official status in Australia; or
- (b) a person who:
 - (i) seeks to enter Australia temporarily under an agreement between Australia and another country; and
 - (ii) has produced evidence that the applicant's stay in Australia under the agreement has been agreed to by the competent authorities in Australia and in that other country; or
- (c) a foreign language teacher intending to work in an Australian school but as an employee of a foreign government.

415.223 If the applicant is an applicant to whom paragraph 415.222 (a) or (c) applies:

- (a) in the case of an applicant:
 - (i) who intends to stay in Australia 3 months or less; or
 - (ii) seeks entry to Australia to direct the operations in Australia of the British Council, the Alliance Francaise, the Goethe Institute, or the Italian Cultural Institute; the applicant produces a statement from the Foreign Ministry of the foreign government concerned supporting the application; or

-
- (b) in any other case — the applicant produces evidence of sponsorship by a foreign government agency.
- 415.224 If sponsorship is required under clause 415.223:
- (a) the Minister has approved a foreign government agency as a sponsor of the applicant under subregulation 1.20AA (2); and
- (b) the sponsorship fee specified in regulation 5.38 has been paid.
- 415.225 The applicant produces a statement which satisfies the Minister that the employment of the applicant in Australia would be of benefit to Australia.
- 415.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 415.227 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 415.228 If the application is made outside Australia and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 415.229 (1) Subject to subclause (2), if the application is made in the migration zone, and:
- (a) the applicant was, at the time of application:
- (i) the holder of a visa of one of the following classes:
- (A) Border (Temporary) (Class TA);
- (B) Business (Temporary) (Class TB);
- (C) Cultural/Social (Temporary) (Class TE);
- (D) Educational (Temporary) (Class TH);
- (E) Expatriate (Temporary) (Class TJ);
- (F) Family Relationship (Temporary) (Class TL);
- (G) Interdependency (Temporary) (Class TM);
- (H) Medical Practitioner (Temporary) (Class UE);
- (I) Retirement (Temporary) (Class TQ);

- (J) Supported Dependant (Temporary) (Class TW); or
 - (ii) the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (iii) the holder of a Confirmatory (Temporary) (Class TD) visa granted on the grounds that the applicant satisfied the criteria for a visa specified in subparagraph (i) or (ii); and
- (b) the grant of the visa would allow the applicant a total period of stay in Australia of more than 3 months as a temporary resident; and
- (c) the applicant is an applicant to whom paragraph 415.222 (a) or (c) applies;
- the applicant is sponsored by an intended employer.
- (2) Subclause (1) does not apply to an applicant who:
- (a) is the holder of a Subclass 415 visa; and
 - (b) entered Australia as a person to whom an agreement mentioned in paragraph 415.222 (b) applied; and
 - (c) continues to be such a person.
- 415.230 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 415.231 If the application is made in the migration zone and the applicant was the holder of a Subclass 415 visa at the time of application, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 415 visa.
- 415.232 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

415.233 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

415.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

415.31 Criteria to be satisfied at time of application

415.311 The applicant is a member of the family unit of a person who has applied for a Subclass 415 visa.

415.312 If the application is made outside Australia and is made separately from that of the family unit member satisfying the primary criteria:

- (a) that family unit member is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of that family unit.

415.32 Criteria to be satisfied at time of decision

415.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 415 visa.

- 415.322 The applicant is included in any sponsorship required in respect of the member of the family unit who satisfies the primary criteria.
- 415.323 If sponsorship is not required for the family unit member who satisfies the primary criteria, that family unit member produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.
- 415.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 415.325 If the application is made outside Australia and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 415.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 415.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 415.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 415.328 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

415.4 Circumstances applicable to grant

- 415.411 If the application is made in the migration zone, the applicant must be in the migration zone at time of grant.
- 415.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

415.5 When visa is in effect

- 415.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

415.6 Conditions

- 415.611 If the applicant meets the primary criteria, condition 8107.
- 415.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

415.7 Way of giving evidence

- 415.711 No evidence need be given.
- 415.712 If evidence is given, to be given by a label affixed to a valid passport.



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

This compilation was prepared on 1 July 2009
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The text of any of those amendments not in force
on that date is appended in the Notes section

**[Note: Regulation 2.12A ceases to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains the Notes and Tables A and B
Each volume has its own Table of Contents

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Schedule 2 Provisions with respect to the grant of Subclasses of visas

Subclass 416 Special Program

416.1 Interpretation

Note No interpretation provisions specific to this Part.

416.2 Primary criteria

Note 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.

416.21 Criteria to be satisfied at time of application

Note If the applicant is outside Australia at time of application, there are no criteria to be satisfied at time of application.

416.211 If the applicant is in the migration zone at the time of application:

- (a) the applicant holds a substantive visa, other than a Subclass 771 (Transit) visa or a special purpose visa; or
- (b) if the applicant does not hold a substantive visa at the time of application:
 - (i) the last substantive visa held by the applicant was not a Subclass 771 visa or a special purpose visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

416.22 Criteria to be satisfied at time of decision

416.221 If:

- (a) the applicant was outside Australia at time of application; or

-
- (b) the applicant was in the migration zone at time of application and the applicant does not hold a Subclass 416 visa;
- the applicant satisfies the criteria in clauses 416.222 to 416.226.
- 416.222 The applicant produces evidence that the applicant:
- (a) is the holder of a Churchill Fellowship; or
 - (b) is applying for the visa for the purpose of taking part in a youth exchange program approved in writing by the Secretary; or
 - (c) has been nominated by a community-based non-commercial organisation in Australia to take part in a program of activity that has the object of cultural enrichment or community benefits and both that organisation and that program have been approved by the Secretary for the purposes of this paragraph; or
 - (d) has been invited to undertake seasonal work in Australia:
 - (i) by an organisation approved by the Secretary for this subparagraph; and
 - (ii) in accordance with a program for undertaking seasonal work approved by the Secretary for this subparagraph.
- 416.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4012, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 416.224 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 416.225 If the applicant was outside Australia at time of application and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 416.226 If the applicant was in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive

visas held by the applicant, and to any subsequent bridging visa.

- 416.227 If, at time of application, the applicant was in the migration zone and was also the holder of a Subclass 416 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 416 visa.
- 416.228 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 416.229 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

416.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

416.31 Criteria to be satisfied at time of application

- 416.311 Both of the following:
- (a) the applicant is a member of the family unit of a person who has applied for a Subclass 416 visa (the *primary applicant*);

- (b) the primary applicant is not seeking to satisfy the criterion in paragraph 416.222 (d).

416.312 If the applicant is outside Australia at time of application and the application is made separately from that of the person who seeks to satisfy or has satisfied the primary criteria, that person is, or is expected soon to be, in Australia.

416.32 Criteria to be met at time of decision

416.321 The applicant continues to be a member of the family unit of a person who:

- (a) having satisfied the primary criteria, is the holder of a Subclass 416 visa; but
- (b) was not granted the visa on the basis of satisfying the criterion in paragraph 416.222 (d).

416.322 The member of the family unit who satisfies the primary criteria produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.

416.323 The applicant:

- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012, 4013 and 4014; and
- (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.

416.324 If the applicant was outside Australia at time of application and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

416.324A If the applicant was in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

- 416.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 416.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 416.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

416.4 Circumstances applicable to grant

- 416.411 If the applicant satisfies the criterion in paragraph 416.222 (d), the applicant must be outside Australia at the time of grant.
- 416.412 In any other case:
- (a) if the applicant was in the migration zone at time of application, the applicant must be in the migration zone, but not in immigration clearance, at the time of grant; and
 - (b) if the applicant was outside Australia at time of application, the applicant must be outside Australia at time of grant.

416.5 When visa is in effect

416.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

416.6 Conditions

416.611 (1) If the applicant satisfies the primary criteria, condition 8107 must be imposed.

(2) If the applicant satisfies the criterion in paragraph 416.222 (d), conditions 8501 and 8503 must also be imposed.

416.611A If the applicant satisfies the primary criteria or the secondary criteria, condition 8403 may be imposed.

416.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

416.7 Way of giving evidence

416.711 No evidence need be given.

416.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 417 Working Holiday

417.1 Interpretation

417.111 In this Part:

regional Australia means a place specified by the Minister in an instrument in writing for the definition of *regional Australia* in subitem 1225 (5) of Schedule 1.

specified work means work of a kind specified by the Minister in an instrument in writing for the definition of *specified work* in subitem 1225 (5) of Schedule 1.

working holiday eligible passport means a valid passport held by a person who is a member of a class of persons specified in an instrument in writing under subparagraph 1225 (3) (b) (i) or (ii) of Schedule 1.

working holiday visa means a visa or entry permit of any of the following classes or kinds:

- (a) a visa that:
 - (i) was issued under the Migration (1989) Regulations; and
 - (ii) contained an endorsement describing the visa as a working holiday visa (code T18) or a working holiday visa (code number 417);
- (b) a class 417 (working holiday) visa and entry permit within the meaning of the Migration (1993) Regulations;
- (c) a Working Holiday (Temporary) (Class TZ) visa;
- (d) a visa that was granted:
 - (i) before 19 December 1989; and
 - (ii) in accordance with the law in force at the time; and
 - (iii) for the same purpose as a visa or permit mentioned in paragraph (a), (b) or (c).

Note ***Internet application*** is defined in regulation 1.03.

417.2 Primary criteria

Note All applicants must satisfy the primary criteria.

417.21 Criteria to be satisfied at time of application

- 417.211
- (1) The applicant satisfies the criteria in subclauses (2), (4) and (5).
 - (2) The applicant:
 - (b) has turned 18 but has not turned 31; and
 - (c) holds a working holiday eligible passport.
 - (4) The Minister is satisfied that the applicant:
 - (a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and
 - (b) has sufficient money for:
 - (i) the fare to the applicant's intended overseas destination on leaving Australia; and

- (ii) personal support for the purposes of a working holiday; and
 - (c) has a reasonable prospect of obtaining employment in Australia; and
 - (d) will not be accompanied by dependent children during his or her stay in Australia.
- (5) If the applicant is, or has previously been, in Australia as the holder of a working holiday visa, the Minister is satisfied that the applicant has carried out specified work in regional Australia for a total period of at least 3 months as the holder of that visa.

417.22 Criteria to be satisfied at time of decision

- 417.221 (1) The applicant satisfies the criteria in subclauses (2) to (7).
- (2) The applicant:
- (a) continues to satisfy the criteria in paragraphs 417.211 (2) (a) and (c) and subclauses 417.211 (4) and (5); and
 - (b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014 and 4019.
- (3) If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- (4) The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- (5) Approval of the application would not result in either:
- (a) the number of Subclass 417 visas granted in a financial year exceeding the maximum number of Subclass 417 visas, as determined by an instrument in writing, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 417, granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing, that may be granted in that financial year.

(6) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(7) The Minister may waive the requirements of subclause (6) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

417.222 If the applicant is, or has previously been, in Australia as the holder of a working holiday visa:

- (a) the applicant has complied substantially with the conditions that applied to any visa held by the applicant; and
- (b) the applicant has not previously held more than 1 working holiday visa in Australia.

417.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

417.4 Circumstances applicable to grant

417.411 If the applicant is not, and has not previously been, in Australia as the holder of a working holiday visa granted at any time, the applicant must be outside Australia at the time of grant.

417.412 If the applicant is, or has previously been, in Australia as the holder of a working holiday visa:

- (a) if the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant; or
- (b) if the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

417.5 When visa is in effect

417.511 (1) If the applicant is outside Australia at the time of grant — temporary visa permitting the holder:

- (a) to travel to and enter Australia within 12 months after the date of grant of the visa; and
- (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.

(2) If:

- (a) the applicant is in Australia at the time of grant; and
- (b) the applicant holds a working holiday visa at the time of application;

temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date that the visa mentioned in paragraph (b) would have otherwise ceased to be in effect.

(3) If:

- (a) the applicant is in Australia at the time of grant; and
- (b) the applicant does not hold a working holiday visa at the time of application;

temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant of the visa.

417.6 Conditions

417.611 Conditions 8547 and 8548.

417.612 Any 1 or more of conditions 8106, 8107, 8301, 8303, 8403, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

417.7 Way of giving evidence

417.711 No evidence need be given.

417.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 418 Educational

418.1 Interpretation

Note No interpretation provisions specific to this subclass.

418.2 Primary criteria

Note 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.

418.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application outside Australia.

418.211 If the application is made in the migration zone, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or

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- (b) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Student (Temporary) (Class TU);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
 - (c) the holder of a Confirmatory (Temporary) (Class TD) visa that was granted on the grounds that the applicant satisfied the criteria for a visa specified in paragraph (a) or (b); or
 - (ca) the holder of a Subclass 497 (Graduate — Skilled) visa; or
 - (d) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a), (c) or (ca); and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005; or
 - (e) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

418.22 Criteria to be satisfied at time of decision

418.221 The applicant:

- (a) has been appointed:
 - (i) to a full-time position at an Australian tertiary education institution or research institution, being an academic position or the position of a librarian, technician or laboratory demonstrator; or

- (ii) to a full-time position at an Australian tertiary education institution or research institution to undertake graduate or post-doctoral research; or
 - (iii) to a full-time position as a teacher at an Australian school or technical college, not being a tertiary education institution; and
 - (b) has provided with the application a letter of appointment from the relevant institution, school or college; and
 - (c) satisfies the Minister that the applicant intends to comply with any conditions subject to which the visa is granted.
- 418.222 If the application is in respect of a proposed stay in Australia of more than 3 months, the applicant is sponsored by the relevant institution, school or college.
- 418.223 If sponsorship of the applicant is required under clause 418.222, at the time when the sponsorship is approved:
 - (a) the relevant institution, school or college satisfies the Minister that it has not been possible to find a suitable person in Australia for appointment to the position; or
 - (b) the Minister is satisfied that there is no need to seek a suitable person in Australia for appointment to the position.
- 418.224 If sponsorship is required under clause 418.222:
 - (a) the Minister has approved an institution, a school or a college as a sponsor of the applicant under subregulation 1.20AA (2); and
 - (b) the sponsorship fee prescribed by regulation 5.38 has been paid.
- 418.225 If the applicant seeks to enter Australia in accordance with a labour agreement, the applicant establishes that:
 - (a) the requirements of the labour agreement have been met; and
 - (b) the applicant's skills and experience are suitable for the position to which the application relates.
- 418.226 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4006A, 4010, 4013 and 4014; and

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- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 418.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 418.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 418.229 If the application is made in the migration zone and the applicant was the holder of a Student (Temporary) (Class TU) visa at the time of application:
- (a) the applicant has successfully completed a course of study in Australia leading to a diploma (within the meaning of subregulation 2.26A (6)) or above; and
 - (b) the applicant is sponsored by an educational or research institution that is able to establish that a person with those skills is not reasonably available in Australia; and
 - (c) if the applicant is a private subsidised student:
 - (i) the sponsor establishes a strong case on economic grounds for the grant of the visa; and
 - (ii) the Minister is satisfied that it would not be detrimental to Australia's policies in respect of overseas students to grant the visa.
- 418.229A (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

- 418.230 If the application is made in the migration zone:
- (a) the applicant was, at the time of application:
 - (i) the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Expatriate (Temporary) (Class TJ);
 - (F) Family Relationship (Temporary) (Class TL);
 - (G) Interdependency (Temporary) (Class TM);
 - (H) Medical Practitioner (Temporary) (Class UE);
 - (I) Retirement (Temporary) (Class TQ);
 - (J) Supported Dependant (Temporary) (Class TW); or
 - (ii) the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 457 (Business (Long Stay)); or
 - (iii) the holder of a Confirmatory (Temporary) (Class TD) visa granted on the grounds that the applicant satisfied the criteria for a visa specified in subparagraph (i) or (ii); or
 - (iv) the holder of a Subclass 497 (Graduate — Skilled) visa; or
 - (v) a person designated under regulation 2.07AO, and the holder of:
 - (A) a Subclass 447 (Secondary Movement Offshore Entry (Temporary)) visa; or
 - (B) a Subclass 451 (Secondary Movement Relocation (Temporary)) visa; or
 - (C) a Subclass 785 (Temporary Protection) visa; or
 - (D) a Subclass 695 (Return Pending) visa; and

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- (b) the grant of the visa would allow the applicant a total period of stay in Australia of more than 3 months as a temporary resident;
- the applicant is sponsored by an institution, college or school.
- 418.231 If the application is made in the migration zone and, at the time of application, the applicant was the holder of an Electronic Travel Authority (Class UD), Long Stay (Visitor) (Class TN), Short Stay (Visitor) (Class TR), Tourist (Class TR), Visitor (Class TV), Working Holiday (Temporary) (Class TZ) or Subclass 456 (Business (Short Stay)) visa:
- (a) the applicant is sponsored by an educational or research institution; and
- (b) the Minister is satisfied that:
- (i) it has not been possible to find a person in Australia who is suitable for the position; or
- (ii) in the circumstances, the institution should not be required to seek a suitable person in Australia.
- 418.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

418.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

418.31 Criteria to be satisfied at time of application

- 418.311 The applicant is a member of the family unit of a person who has applied for a Subclass 418 visa.
- 418.312 If the application is made outside Australia and the application is made separately from that of the family unit member satisfying the primary criteria:

- (a) that family unit member is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of that family unit.

418.32 Criteria to be met at time of decision

- 418.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 418 visa.
- 418.322 The applicant is included in any sponsorship required in respect of the member of the family unit who, having satisfied the primary criteria, is the holder of a Subclass 418 visa.
- 418.323 If sponsorship is not required for the member of the family unit who having satisfied the primary criteria holds a Subclass 418 visa, that family unit member produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.
- 418.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4006A, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 418.325 If the application is made outside Australia and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 418.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

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- 418.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 418.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 418.328 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

418.4 Circumstances applicable to grant

- 418.411 If the application is made in the migration zone, the applicant must be in the migration zone at time of grant.
- 418.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

418.5 When visa is in effect

- 418.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

418.6 Conditions

- 418.611 If the applicant satisfies the primary criteria, condition 8107.

418.612 Any one or more of conditions 8106, 8203, 8301, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

418.7 Way of giving evidence

418.711 No evidence need be given.

418.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 419 Visiting Academic

419.1 Interpretation

Note No interpretation provisions specific to this Part.

419.2 Primary criteria

Note 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.

419.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application outside Australia.

419.211 If the application is made in the migration zone, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);

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- (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or
 - (b) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Tourist (Class TR);
 - (F) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
 - (c) the holder of a Confirmatory (Temporary) (Class TD) visa which was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or
 - (d) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004, and 3005; or
 - (e) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

419.22 Criteria to be satisfied at time of decision

419.221 If:

- (a) the application is made outside Australia; or

- (b) the application is made in the migration zone and the applicant does not hold a Subclass 419 visa;
- the applicant satisfies the criteria in clauses 419.222 to 419.228.
- 419.222 (1) The applicant is an academic who is invited to visit an Australian tertiary institution or research institution for the purpose of observing, or participating in, research at the institution.
- (2) The applicant or the institution that invited the applicant provides a copy of the invitation.
- 419.223 If the applicant seeks to enter Australia under an agreement between Australia and another country:
- (a) the Minister is satisfied that the application meets the requirements of the agreement; and
- (b) the applicant has produced evidence that the stay of the applicant in Australia under the agreement has been agreed to by the competent authorities in Australia and the other country.
- 419.224 The applicant will not be receiving a salary, scholarship or allowance (other than an allowance towards living expenses in Australia and travel costs) from the institution.
- 419.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 419.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 419.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 419.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

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- 419.229 If the application is made in the migration zone and the applicant was at the time of application, the holder of a Subclass 419 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 419 visa.
- 419.230 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 419.231 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

419.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

419.31 Criteria to be satisfied at time of application

- 419.311 The applicant is a member of the family unit of a person who has applied for a Subclass 419 visa.
- 419.312 If the application is made outside Australia and the application is made separately from that of the person satisfying the primary criteria:
- (a) that person is, or is expected soon to be, in Australia; and

- (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

419.32 Criteria to be met at time of decision

- 419.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 419 visa.
- 419.322 The member of the family unit who meets the primary criteria produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.
- 419.323 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 419.324 If the application is made outside Australia and the applicant has previously been in Australia, he or she satisfies special return criteria 5001 and 5002.
- 419.324A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 419.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or

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- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 419.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 419.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

419.4 Circumstances applicable to grant

- 419.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.
- 419.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

419.5 When visa is in effect

- 419.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

419.6 Conditions

- 419.611 If the applicant meets the primary criteria, conditions 8103 and 8107.
- 419.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

419.7 Way of giving evidence

- 419.711 No evidence need be given.
- 419.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 420 Entertainment

420.1 Interpretation

420.111 In this Part:

Arts Minister means the Minister for the Arts and Sport.

420.2 Primary criteria

Note 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.

420.21 Criteria to be satisfied at time of application

Note No criteria to be satisfied at time of application outside Australia.

420.211 If, at the time of application, the applicant is in the migration zone, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or

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- (b) the holder of:
- (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Tourist (Class TR);
 - (F) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
- (c) the holder of a Confirmatory (Temporary) (Class TD) visa which was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or
- (d) not the holder of a substantive visa and:
- (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004 and 3005; or
- (e) not the holder of a substantive visa and:
- (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

420.22 Criteria to be satisfied at time of decision

420.221 If:

- (a) the applicant is outside Australia at the time of application; or
- (b) the applicant is in the migration zone at the time of application and the applicant does not hold a Subclass 420 (Entertainment) visa;

the applicant satisfies the criteria in clauses 420.222 to 420.229.

420.222 (1) The applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant seeks to enter Australia as an entertainer under a performing contract for one or more specific engagements (other than non-commercial engagements of a cultural or educational nature) in Australia to take part in a film or television production that is subsidised in whole or in part by a government in Australia; and
 - (b) entry is sought to perform:
 - (i) in a leading, major supporting or cameo role; or
 - (ii) to satisfy ethnic or other special requirements; and
 - (c) the application is supported by a certificate given by the Arts Minister, or a person authorised by the Arts Minister, confirming that relevant Australian content criteria have been met.

- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant seeks to enter Australia as an entertainer under a performing contract for one or more specific engagements (other than non-commercial engagements of a cultural or educational nature) in Australia to take part in a film or television production that is not subsidised in whole or in part by a government in Australia; and
 - (b) entry is sought:
 - (i) to perform in a leading, major supporting or cameo role; or
 - (ii) to satisfy ethnic or other special requirements; and
 - (c) the application is supported by a certificate given by the Arts Minister, or a person authorised by the Arts Minister, confirming that:
 - (i) citizens or residents of Australia have been afforded a reasonable opportunity to participate in all levels of production; and
 - (ii) the foreign investment, or the private investment guaranteed against the foreign returns by a distributor, in the production, is greater than the amount to be expended on entertainers sponsored for entry.

- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant seeks to enter Australia:
 - (i) as an entertainer under a performing contract that is not related to film or television production for one or more specific engagements in Australia (other than non-commercial engagements of a cultural or educational nature); or
 - (ii) to support an entertainer or group of entertainers (whether by assisting performance or by personal services) in relation to a performing contract for one or more specific engagements in Australia; or
 - (iii) to direct, produce or take some other part (otherwise than as a performer) in a theatre, film, television or radio production, or a concert or recording to be performed or shown in Australia, being a production, concert or recording that involves the employment of at least one resident of Australia; and
 - (b) the applicant satisfies the Minister that the activity in Australia in relation to which the application is made will bring a net employment benefit to the Australian entertainment industry.
- (5) An applicant meets the requirements of this subclause if the applicant seeks to enter Australia to perform in one or more specific engagements of a cultural nature for non-commercial purposes.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant seeks to enter Australia under an agreement between Australia and another country; and
 - (b) the Minister is satisfied that the application meets the requirements of the agreement; and
 - (c) the applicant has produced evidence that the applicant's stay in Australia under the agreement has been agreed to by the competent authorities in Australia and in that other country.

- 420.223 (1) Subject to subclauses (2) and (3), the applicant is sponsored by a person or body in Australia, being a person who, or body which:
- (a) satisfies the Minister that the person or body has good professional and financial standing; and
 - (b) has not defaulted on any previous sponsorship into which the person or body has entered; and
 - (c) holds any necessary licences in respect of the work to which the application relates; and
 - (d) has consulted with relevant Australian unions in relation to the employment or engagement of the applicant in Australia.
- (2) Subclause (1) does not apply to an applicant who seeks to enter Australia under an agreement mentioned in subclause 420.222 (6).
- (3) Paragraphs (1) (a) and (d) do not apply in relation to the sponsorship of an applicant who seeks to enter Australia to perform in one or more specific engagements of a cultural nature for non-commercial purposes.
- 420.224 If sponsorship is required under clause 420.223:
- (a) the Minister has approved a person or an organisation as a sponsor of the applicant under subregulation 1.20AA (2); and
 - (b) the sponsorship fee prescribed in regulation 5.38 has been paid.
- 420.225 Unless the applicant seeks to enter Australia to perform purely for non-commercial purposes, the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.
- 420.226 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

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- 420.227 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 420.228 If the applicant was outside Australia at the time of application and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 420.229 If the applicant is in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 420.230 If the applicant was in the migration zone at the time of application and the applicant was at the time of application the holder of a Subclass 420 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 420 visa.
- 420.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 420.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

420.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

420.31 Criteria to be satisfied at time of application

420.311 The applicant is a member of the family unit of a person who has applied for a Subclass 420 visa.

420.312 If the applicant was outside Australia at the time of application and the application was made separately from that of the person satisfying the primary criteria:

- (a) that person is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

420.32 Criteria to be met at time of decision

420.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 420 visa.

420.322 The applicant is included in any sponsorship required in respect of the member of the family unit who satisfies the primary criteria.

420.323 If sponsorship is not required for the member of the family unit who satisfies the primary criteria, that person produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.

420.324 The applicant:

- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
- (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.

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- 420.325 If the applicant was outside Australia at the time of application and the applicant has previously been in Australia, he or she satisfies special return criteria 5001 and 5002.
- 420.325A If the applicant is in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 420.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 420.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 420.328 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

420.4 Circumstances applicable to grant

- 420.411 If the applicant was in the migration zone at the time of application, the applicant must be in the migration zone at the time of grant.
- 420.412 If the applicant was outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

420.5 When visa is in effect

420.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

420.6 Conditions

420.611 If the applicant meets the primary criteria, conditions 8107 and 8109.

420.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

420.7 Way of giving evidence

420.711 No evidence need be given.

420.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 421 Sport

421.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

421.2 Primary criteria

421.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

421.211 If the application is made in the migration zone, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);

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- (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or
 - (b) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Tourist (Class TR);
 - (F) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
 - (c) the holder of a Confirmatory (Temporary) (Class TD) visa which was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or
 - (d) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004, and 3005; or

- (e) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

421.22 Criteria to be satisfied at time of decision

421.221 If:

- (a) the application is made outside Australia; or
- (b) the application is made in the migration zone and the applicant does not hold a Subclass 421 visa;

the applicant satisfies the criteria in clauses 421.222 to 421.229.

421.222

- (1) The applicant meets the requirements of subclause (2), (3), (4), (5), (6) or (7).
- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant is entered individually or as a member of a team to compete in a sporting event, or sporting events, in Australia, and is not so entered as a Taiwanese national claiming to represent Taiwan, China or the Republic of China; and
 - (b) the applicant satisfies the Minister:
 - (i) that the applicant has sufficient money for the support of the applicant and of any accompanying member of the applicant's family, and of any assistant for whom the applicant is responsible, in Australia; and
 - (ii) that, on arrival in Australia, the applicant and any accompanying family member or assistant of that kind will possess travel tickets to a destination in a foreign country.
- (3) An applicant meets the requirements of this subclause if the applicant:
 - (a) has been, or is to be, appointed or employed to assist a participant or team referred to in paragraph (2) (a); and

- (b) satisfies the Minister:
 - (i) that the individual participant or team with whom the applicant is associated will provide complete financial support for the applicant and any accompanying member of the applicant's family in Australia; and
 - (ii) that, on arrival in Australia, the applicant and any accompanying family member will possess travel tickets to a destination in a foreign country.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant seeks to enter Australia under an arrangement with an organisation in Australia to:
 - (i) be a player, coach or instructor in relation to an Australian team or organisation; or
 - (ii) participate in a training program; and
 - (b) the applicant is sponsored by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen or an organisation in Australia; and
 - (c) the applicant establishes:
 - (i) if there is a relevant labour agreement between the Minister and an Australian sporting organisation — that the sponsorship is in accordance with the agreement; and
 - (ii) that the sponsor has good financial and professional status in Australia; and
 - (iii) that the applicant has an established reputation in the field of sport; and
 - (iv) that the applicant and the sponsor have entered into a formal arrangement relating to the applicant's prospective activities in Australia; and
 - (d) approval of the application would not result in the number of Subclass 421 visas granted in a financial year on the basis of the satisfaction of the requirements of this subclause exceeding the maximum number of such visas specified, by Gazette Notice, for the purposes of this paragraph in respect of that financial year.

- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant seeks to enter Australia under a business arrangement with an organisation in Australia to be a sports instructor, and that arrangement is approved in writing by the Minister; and
 - (b) the applicant is sponsored by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen or an organisation in Australia; and
 - (c) the applicant establishes that:
 - (i) labour market requirements have been met; and
 - (ii) the applicant's qualifications and experience are suitable for the position to which the application relates; and
 - (iii) the applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards; and
 - (iv) the employer has a satisfactory training record; and
 - (d) the applicant satisfies the Minister that undertaking the arrangement will benefit Australia.

- (6) An applicant meets the requirements of this subclause if:
 - (a) the applicant seeks to enter Australia to act as a judge or adjudicator at shows or competitions in Australia; and
 - (b) the applicant:
 - (i) produces a written invitation or request to act as a judge or adjudicator as stated in the application; and
 - (ii) provides an itinerary listing the engagements as a judge or adjudicator to be undertaken by the applicant; and
 - (iii) if intending to stay in Australia for more than 3 months — is sponsored by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen or an organisation operating in Australia.

(7) An applicant meets the requirements of this subclause if the applicant:

- (a) seeks to enter Australia temporarily under an agreement between Australia and another country, and the Minister is satisfied that the application meets the requirements of the agreement; and
- (b) has produced evidence that the applicant's stay in Australia under the agreement has been agreed to by the competent authorities in Australia and in that other country.

421.223 If:

- (a) the applicant is a person to whom subclause 421.222 (2) or (3) applies; and
- (b) the intended period of the applicant's stay in Australia does not exceed 3 months;

the applicant:

- (c) provides a letter of invitation from an organisation in Australia in relation to the participation in an event or events in Australia of the applicant or a person or team with whom the applicant is associated, or satisfactory evidence that an entry for an event in Australia has been accepted; or
- (d) is an individual competitor, or is assisting an individual competitor or a team, known internationally and having a record of participation in international events.

421.224 If:

- (a) the applicant is a person to whom subclause 421.222 (2) or (3) applies; and
- (b) the intended period of the applicant's stay exceeds 3 months;

the applicant:

- (c) is sponsored by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen or an organisation in Australia; or

- (d) is an individual competitor, or is associated with an individual competitor or a team, known internationally and having a record of participation in international events.
- 421.224A If the applicant is required to be sponsored:
- (a) the Minister has approved a person or an organisation as a sponsor of the applicant under subregulation 1.20AA (2); and
 - (b) the sponsorship fee prescribed in regulation 5.38 has been paid.
- 421.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 421.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 421.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 421.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 421.229 If the application is made in the migration zone and the application is in respect of a proposed stay in Australia of more than 3 months, the applicant:
- (a) is sponsored by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen or an organisation operating in Australia; or
 - (b) is an individual competitor, or is associated with an individual competitor or a team, known internationally and having a record of participation in international events.

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- 421.230 If the application is made in the migration zone and the applicant was at the time of application the holder of a Subclass 421 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 421 visa.
- 421.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 421.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

421.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

421.31 Criteria to be satisfied at time of application

- 421.311 The applicant is a member of the family unit of a person who has applied for a Subclass 421 visa.
- 421.312 If the application is made outside Australia and the application is made separately from that of the person satisfying the primary criteria:

- (a) that person is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

421.32 Criteria to be met at time of decision

- 421.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 421 visa.
- 421.322 The applicant is included in any sponsorship required in respect of the member of the family unit who satisfies the primary criteria.
- 421.323 If sponsorship is not required for the person who satisfies the primary criteria, that person produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that person and the applicant.
- 421.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 421.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 421.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 421.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

421.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

421.328 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

421.4 Circumstances applicable to grant

421.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.

421.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

421.5 When visa is in effect

421.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

421.6 Conditions

421.611 If the applicant satisfies the primary criteria, condition 8107.

421.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

421.7 Way of giving evidence

421.711 No evidence need be given.

421.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 422 Medical Practitioner

422.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

422.2 Primary criteria

Note 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.

422.21 Criteria to be satisfied at time of application

Note If the applicant is outside Australia at time of application, there are no criteria to be satisfied at time of application.

422.211 If the applicant is in the migration zone at time of application, the applicant is:

- (a) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Prospective Marriage (Temporary) (Class TO);
 - (I) Retirement (Temporary) (Class TQ);

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- (J) Supported Dependant (Temporary) (Class TW);
 - (K) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (B) Subclass 457 (Business (Long Stay));
 - (C) Subclass 476 (Skilled — Recognised Graduate);
 - (D) Subclass 485 (Skilled — Graduate); or
 - (b) the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Student (Temporary) (Class TU);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
 - (c) the holder of a Confirmatory (Temporary) (Class TD) visa that was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or
 - (d) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004 and 3005; or
 - (e) not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

422.22 Criteria to be satisfied at time of decision

422.221 If:

- (a) the applicant was outside Australia at time of application; or
- (b) the applicant was in the migration zone at time of application and the applicant does not hold a Subclass 422 visa;

the applicant satisfies the criteria in clauses 422.222 to 422.227B.

422.222 An applicant satisfies the requirements of this clause if:

- (a) the applicant's qualifications are recognised by the Medical Board of a State or Territory as entitling the applicant to practise as a medical practitioner in that State or Territory for the purposes of the position to which the application relates; and
- (b) the Minister is satisfied that:
 - (i) labour market requirements have been met; and
 - (ii) the position to which the application relates is a full-time position; and
 - (iii) the applicant is to be adequately remunerated in the position, having regard to Australian conditions and levels of remuneration; and
 - (iv) the employment of the applicant in the position would benefit Australia; and
- (c) the applicant is sponsored by:
 - (i) a person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (ii) a body operating in Australia;
being the prospective employer of the applicant; and
- (d) the Minister has approved a person or an organisation as a sponsor of the applicant under subregulation 1.20AA (2) and the sponsorship fee prescribed in regulation 5.38 has been paid.

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- 422.223 If the applicant seeks to enter Australia in accordance with a labour agreement, the applicant establishes that:
- (a) the requirements of the labour agreement have been met; and
 - (b) the applicant's skills and experience are suitable for the position to which the application relates.
- 422.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 422.225 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 422.226 If the applicant was outside Australia at time of application and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 422.227 If, at time of application, the applicant was in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 422.227A If, at time of application, the applicant was in the migration zone and was also the holder of a student visa:
- (a) the applicant has successfully completed a course in Australia at diploma level (within the meaning of subregulation 2.26A (6)) or above; and
 - (b) the Minister is satisfied that:
 - (i) it has not been possible to find a person who is suitable for the position in which the applicant's intended employer proposes to employ the applicant; or
 - (ii) in the circumstances, the intended employer should not be required to seek a suitable employee in Australia; and
 - (c) the applicant is sponsored by an intended employer that is able to establish that a person with those skills is not reasonably available in Australia; and

- (d) if the applicant is a private subsidised student:
 - (i) the sponsor establishes a strong case on economic grounds for the grant of the visa; and
 - (ii) the Minister is satisfied that it would not be detrimental to Australia's policies in respect of overseas students to grant the visa.
- 422.227B If, at time of application, the applicant was in the migration zone and was also the holder of an Electronic Travel Authority (Class UD), Long Stay (Visitor) (Class TN), Short Stay (Visitor) (Class TR), Tourist (Class TR), Visitor (Class TV), Working Holiday (Temporary) (Class TZ) or Subclass 456 (Business (Short Stay)) visa:
 - (a) the applicant is sponsored by the applicant's intended employer; and
 - (b) the Minister is satisfied that:
 - (i) it has not been possible to find a person who is suitable for the position in which the applicant's intended employer proposes to employ the applicant; or
 - (ii) in the circumstances, the intended employer should not be required to seek a suitable employee in Australia.
- 422.228 If, at time of application, the applicant was in the migration zone and was also the holder of a Subclass 422 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the criteria for the grant of a Subclass 422 visa.
- 422.229 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
 - (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
 - (a) compelling circumstances that affect the interests of Australia; or

- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

422.230 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

422.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

422.31 Criteria to be satisfied at time of application

422.311 The applicant is a member of the family unit of a person who has applied for a Subclass 422 visa.

422.312 If the applicant is outside Australia at time of application and the application is made separately from that of the member of the family unit who seeks to satisfy or has satisfied the primary criteria, that member of the family unit is, or is expected soon to be, in Australia.

422.32 Criteria to be met at time of decision

422.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 422 visa.

422.322 The applicant is included in the sponsorship required in respect of the person who satisfies the primary criteria.

422.323 The applicant:

- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
- (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and

- (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 422.326 If the applicant was outside Australia at time of application and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 422.326A If the applicant was in the migration zone at time of application, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 422.327 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 422.328 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 422.329 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

422.4 Circumstances applicable to grant

- 422.411 If the applicant was in the migration zone at time of application, the applicant must be in the migration zone at the time of grant.

422.412 If the applicant was outside Australia at time of application, the applicant must be outside Australia at the time of grant.

422.5 When visa is in effect

422.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

422.6 Conditions

422.611 If the applicant meets the primary criteria, condition 8107.

422.612 Any 1 or more of conditions 8106, 8301, 8303, 8403, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

422.7 Way of giving evidence

422.711 No evidence need be given.

422.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 423 Media and Film Staff

423.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

423.2 Primary criteria

Note 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.

423.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

- 423.211 If the application is made in the migration zone:
- (a) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or
 - (b) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Tourist (Class TR);
 - (F) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
 - (c) the applicant is the holder of a Confirmatory (Temporary) (Class TD) visa which was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or

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- (d) the applicant is not the holder of a substantive visa, and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004, and 3005; or
 - (e) the applicant is not the holder of a substantive visa, and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

423.22 Criteria to be satisfied at time of decision

423.221 If:

- (a) the application is made outside Australia; or
- (b) the application is made in the migration zone and the applicant does not hold a Subclass 423 visa;

the applicant satisfies the criteria in clauses 423.222 to 423.229.

423.222

(1) If the applicant seeks to enter Australia temporarily, the applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant seeks to represent an overseas news organisation as a journalist, correspondent or reporter and:

- (a) either:
 - (i) if the organisation is not represented in Australia, the applicant provides a statement from the organisation detailing the intended activities of the organisation in Australia and the Minister is satisfied that:
 - (A) representation of the organisation in Australia would not be contrary to the interests of Australia; and
 - (B) the organisation would support the applicant financially in Australia and arrange for the applicant's departure from Australia on or before the day of expiry of the visa; or

- (ii) if the organisation is represented in Australia, the Minister is satisfied that:
 - (A) there is no suitable person in Australia who is capable of doing, and available to do, the work envisaged for the applicant; and
 - (B) that the work would not be contrary to the interests of Australia; and
- (b) if the intended period of stay in Australia is more than 3 months, the applicant is sponsored by an Australian citizen, an Australian permanent resident, an eligible New Zealand citizen, or an organisation operating in Australia.
- (3) An applicant meets the requirements of this subclause if the applicant seeks to make a documentary program or a commercial that is exclusively for overseas use, and the Minister is satisfied that:
 - (a) there is no suitable person in Australia who is capable of doing, and available to do, the work envisaged for the applicant; and
 - (b) that work would not be contrary to the interests of Australia; and
 - (c) if the intended period of stay in Australia is more than 3 months, the applicant is sponsored by an Australian citizen, an Australian permanent resident or an organisation operating in Australia.
- (4) An applicant meets the requirements of this subclause if the applicant:
 - (a) seeks to enter Australia temporarily under an agreement between Australia and another country; and
 - (b) has produced evidence that the applicant's stay in Australia under the agreement has been agreed to by the competent authorities in Australia and in that other country; and
 - (c) the Minister is satisfied that the application meets the requirements of the agreement.

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- 423.223 If sponsorship is required under paragraph 423.222 (2) (b) or (3) (c):
- (a) the Minister has approved a person or an organisation as a sponsor of the applicant under subregulation 1.20AA (2); and
 - (b) the sponsorship fee prescribed in regulation 5.38 has been paid.
- 423.224 The applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.
- 423.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 423.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 423.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 423.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 423.229 If the application is made in the migration zone and:
- (a) the applicant was, at the time of application, the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Expatriate (Temporary) (Class TJ);
 - (F) Family Relationship (Temporary) (Class TL);
 - (G) Interdependency (Temporary) (Class TM);

- (H) Medical Practitioner (Temporary) (Class UE);
 - (I) Retirement (Temporary) (Class TQ);
 - (J) Supported Dependant (Temporary) (Class TW); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 457 (Business (Long Stay)); or
 - (iii) a Confirmatory (Temporary) (Class TD) visa granted on the grounds that the applicant satisfied the criteria for a visa specified in subparagraph (i) or (ii); and
 - (b) the grant of the visa would allow the applicant a total period of stay in Australia of more than 3 months as a temporary resident;
- the applicant is sponsored by an intended employer.
- 423.230 If the application is made in the migration zone and the applicant was the holder of a Subclass 423 visa at the time of application, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 423 visa.
- 423.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 423.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:

- (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

423.3 Secondary criteria

Note The secondary criteria must be met by applicants who are members of the family unit of a person who satisfies the primary criteria.

423.31 Criteria to be satisfied at time of application

423.311 The applicant is a member of the family unit of a person who has applied for a Subclass 423 visa.

423.312 If the application is made outside Australia and the application is made separately from that of the person satisfying the primary criteria:

- (a) that person is, or is expected soon to be, in Australia;
and
- (b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

423.32 Criteria to be met at time of decision

423.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 423 visa.

423.322 The applicant is included in any sponsorship required in respect of the person who satisfies the primary criteria.

423.323 If sponsorship is not required for the member of the family unit who satisfies the primary criteria, that person produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.

423.324 The applicant:

- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and

- (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 423.325 If the application is made outside Australia and if the applicant has previously been in Australia, satisfies special return criteria 5001 and 5002.
- 423.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 423.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
 - (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
 - (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 423.327 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 423.328 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

423.4 Circumstances applicable to grant

- 423.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.

423.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

423.5 When visa is in effect

423.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

423.6 Conditions

423.611 If the applicant meets the primary criteria, condition 8107.

423.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

423.7 Way of giving evidence

423.711 No evidence need be given.

423.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 426 Domestic Worker (Temporary) — Diplomatic or Consular

426.1 Interpretation

426.111 In this Part:

current employer, in relation to the applicant, means the person whose household is the household in relation to employment in which the Subclass 426 visa was granted to the applicant.

426.2 Primary criteria

Note All applicants must satisfy the primary criteria.

426.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

426.211 If the application is made in the migration zone:

- (a) the applicant is the holder, having satisfied the primary criteria, of a Subclass 426 visa; or
- (b) the applicant is not the holder of a substantive visa; and
 - (i) the last substantive visa held by the applicant was a Subclass 426 visa; and
 - (ii) the applicant satisfies Schedule 3 criteria 3003 and 3004.

426.22 Criteria to be satisfied at time of decision

426.221 If:

- (a) the application is made outside Australia; or
- (b) the application is made in the migration zone and the applicant does not hold a Subclass 426 visa;

the applicant satisfies the criteria in clauses 426.222 to 426.228.

426.222 If the application is made outside Australia, the applicant:

- (a) has turned 18; and
- (b) seeks to enter Australia to undertake full-time domestic duties in the household of a person who:
 - (i) is the holder of a Subclass 995 (Diplomatic (Temporary)) visa; and
 - (ii) is not a permanent resident of Australia; and
 - (iii) has entered into an employment agreement with the applicant in relation to those duties; and
- (c) is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.

426.223 The application has the support in writing of the Foreign Minister.

426.224 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013, 4014 and 4019.

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- 426.225 The applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 426.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 426.227 If the application is made in the migration zone, the Minister is satisfied that:
- (a) the applicant is undertaking, and while remaining in Australia will continue to undertake, full-time domestic duties in the household of the applicant's current employer; or
 - (b) the applicant seeks to remain in Australia to undertake full-time domestic duties in the household of a person (other than the applicant's current employer) who:
 - (i) is the holder of a Subclass 995 (Diplomatic (Temporary)) visa; and
 - (ii) has entered into an employment agreement with the applicant in relation to those duties.
- 426.228 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 426.229 If the application is made in the migration zone and the applicant was the holder of a Subclass 426 visa at the time of application, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 426 visa.
- 426.230 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

426.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

426.4 Circumstances applicable to grant

- 426.411 If the application is made in the migration zone, the applicant must be in the migration zone at time of grant.
- 426.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

426.5 When visa is in effect

- 426.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

426.6 Conditions

- 426.611 Conditions 8110 and 8516.
- 426.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8522, 8525 and 8526 may be imposed.

426.7 Way of giving evidence

- 426.711 No evidence need be given.
- 426.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 427 Domestic Worker (Temporary) — Executive

427.1 Interpretation

Note No interpretation provisions specific to this Part.

427.2 Primary criteria

Note 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.

427.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

427.211 If the application is made in the migration zone:

- (a) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Supported Dependant (Temporary) (Class TW);
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or
- (b) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Tourist (Class TR);
 - (F) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or

- (c) the applicant is the holder of a Confirmatory (Temporary) (Class TD) visa which was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or
- (d) the applicant is not the holder of a substantive visa, and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004 and 3005; or
- (e) the applicant is not the holder of a substantive visa, and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

427.22 Criteria to be satisfied at time of decision

427.221 If:

- (a) the application is made outside Australia; or
- (b) the application is made in the migration zone and the applicant does not hold a Subclass 427 visa;

the applicant satisfies the criteria in clauses 427.222 to 427.232.

427.222 The applicant seeks to enter Australia to undertake full-time domestic duties in the household of an executive who:

- (a) is in charge of an Australian office of an overseas organisation; and
- (b) is the holder of:
 - (i) a Subclass 412 (Independent Executive) visa; or
 - (ii) a Subclass 413 (Executive) visa; or
 - (iii) a Subclass 457 (Business (Long Stay)) visa granted on the basis of the holder meeting the requirements of subclause 457.223 (2), (3), (4), (5), (7), (9) or (10).

427.223 If the executive is sponsored by an organisation in Australia, the applicant gives satisfactory evidence to the Minister that the applicant is sponsored by that organisation.

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- 427.224 If the executive is not sponsored by an organisation in Australia, the applicant lodges with the application:
- (a) an employment agreement, acceptable to the Minister, between the applicant and the executive for the performance of full-time domestic duties in the household of the executive; and
 - (b) an undertaking by the executive to be responsible for:
 - (i) all financial liabilities of the applicant arising out of the applicant's stay in Australia; and
 - (ii) compliance by the applicant with:
 - (A) all legislation and awards (including State or Territory legislation and awards) relating to the applicant's proposed employment; and
 - (B) the departure of the applicant from Australia not later than the departure of the executive from Australia.
- 427.225 The executive:
- (a) establishes:
 - (i) that the executive has been unable to find a suitable person in Australia for the relevant position; or
 - (ii) that there are compelling reasons for employing the applicant; and
 - (b) produces a written undertaking:
 - (i) to meet all the applicant's travel expenses to Australia to take up the position and to a destination outside Australia on the expiry of the contract of employment and not later than the time of expiry of the visa; and
 - (ii) not to seek to recover any expenditure by the executive in relation to the applicant's travel to or from Australia or financial support of the applicant in Australia.
- 427.226 The applicant has turned 18 and has experience as a domestic worker.

- 427.227 The applicant is to be employed or engaged in Australia in accordance with the standards for wages and working conditions provided for under relevant Australian legislation and awards.
- 427.228 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 427.229 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 427.230 If the application is made outside Australia, and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 427.231 Either:
- (a) the Minister has approved a person or an organisation as a sponsor of the applicant under subregulation 1.20AA (2); or
 - (b) the documents mentioned in clause 427.224 have been lodged with the Minister;
- as the case requires, and the sponsorship fee specified in regulation 5.38 has been paid.
- 427.232 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 427.233 If the application is made in the migration zone, and the applicant was at the time of application the holder of a Subclass 427 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 427 visa.
- 427.234 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and

- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

427.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

427.31 Criteria to be satisfied at time of application

- 427.311 The applicant is a member of the family unit of a person who has applied for a Subclass 427 visa.
- 427.312 If the application is made outside Australia and the application is made separately from that of the family unit member satisfying the primary criteria:
- (a) that family unit member is, or is expected soon to be, in Australia; and
 - (b) the applicant intends to stay temporarily in Australia as a member of that family unit.

427.32 Criteria to be met at time of decision

- 427.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 427 visa.
- 427.322 The applicant is included in any sponsorship required in respect of the person who satisfies the primary criteria.
- 427.323 If sponsorship is not required for the member of the family unit who satisfies the primary criteria, that family unit member produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.
- 427.324 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and

- (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.
- 427.325 If the application is made outside Australia and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 427.325A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 427.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 427.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

427.4 Circumstances applicable to grant

- 427.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.
- 427.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

427.5 When visa is in effect

- 427.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

427.6 Conditions

- 427.611 If the applicant meets the primary criteria, conditions 8107 and 8111.
- 427.612 Any 1 or more of conditions 8106, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

427.7 Way of giving evidence

- 427.711 No evidence need be given.
- 427.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 428 Religious Worker

428.1 Interpretation

Note No interpretation provisions specific to this Part.

428.2 Primary criteria

Note 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.

428.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

- 428.211 If the application is lodged in the migration zone:
- (a) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);

- (G) Medical Practitioner (Temporary) (Class UE);
- (H) Retirement (Temporary) (Class TQ);
- (I) Supported Dependant (Temporary) (Class TW);
- (J) Working Holiday (Temporary) (Class TZ); or
- (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457 (Business (Long Stay)); or
- (b) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);
 - (E) Tourist (Class TR);
 - (F) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
- (c) the applicant is the holder of a Confirmatory (Temporary) (Class TD) visa that was granted on the grounds that the applicant satisfied the criteria for one of the visas specified in paragraph (a) or (b); or
- (d) the applicant is not the holder of a substantive visa, and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a) or (c); and
 - (ii) satisfies Schedule 3 criteria 3003, 3004 and 3005; or
- (e) the applicant is not the holder of a substantive visa, and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

428.22 Criteria to be satisfied at time of decision

428.221 If:

- (a) the application is made outside Australia; or
- (b) the application is made in the migration zone and the applicant does not hold a Subclass 428 visa;

the applicant satisfies the criteria in clauses 428.222 to 428.228.

428.222 Each of the following applies:

- (a) the applicant is sponsored by a religious organisation in Australia to undertake work in Australia that directly serves the religious objectives of the organisation;
- (b) the Minister has approved a religious organisation as a sponsor of the applicant under subregulation 1.20AA (2);
- (c) the sponsorship fee prescribed in regulation 5.38 has been paid.

428.222A If the religious organisation mentioned in clause 428.222 has entered into a written agreement with the Secretary relating to the sponsorship of applicants:

- (a) the agreement specifies the position which the applicant will occupy while in Australia; and
- (b) the Minister is satisfied that the applicant will occupy that position while in Australia.

428.223 The applicant provides a written undertaking by the religious organisation:

- (a) to meet all the applicant's travel expenses to a place in a foreign country on:
 - (i) the expiry of the sponsorship; or
 - (ii) the expiry of the visa;whichever is the earlier; and
- (b) not to seek to recover from the applicant any expenditure by the religious organisation in relation to the applicant's travel to or from Australia, or in relation to financial support of the applicant in Australia.

- 428.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 428.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 428.227 If the application is lodged outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 428.228 The applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 428.229 If the application is made in the migration zone and the applicant was the holder of a Subclass 428 visa at the time of application, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 428 visa.
- 428.230 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 428.231 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

428.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

428.31 Criteria to be satisfied at time of application

428.311 The applicant is a member of the family unit of a person who has applied for a Subclass 428 visa.

428.312 If the application is lodged outside Australia and the application is made separately from that of the person satisfying the primary criteria:

- (a) that person is, or is expected soon to be, in Australia; and
(b) the applicant intends to stay temporarily in Australia as a member of the family unit of that person.

428.32 Criteria to be met at time of decision

428.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 428 visa.

428.322 The applicant is included in the sponsorship required in respect of the person who meets the primary criteria.

428.323 The applicant:

- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
(b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
(c) in the case of an applicant who had turned 18 at the time of application, satisfies public interest criterion 4019.

428.324 If the application is lodged outside Australia and if the applicant has previously been in Australia, satisfies special return criteria 5001 and 5002.

428.324A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

428.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

428.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

428.327 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

428.4 Circumstances applicable to grant

428.411 If the application is made in the migration zone, the applicant is in the migration zone at the time of grant.

428.412 If the application is made outside Australia, the applicant is outside Australia at the time of grant.

428.5 When visa is in effect

428.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

428.6 Conditions

- 428.611 If the applicant satisfies the primary criteria, conditions 8107 and 8303.
- 428.612 Any 1 or more of conditions 8106, 8107, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

428.7 Way of giving evidence

- 428.711 No evidence need be given.
- 428.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 442 Occupational Trainee

442.1 Interpretation

- 442.111 In this Part:

completed, in relation to the principal course, for an award course means having met the academic requirements for its award, and for a non-award course means having met the course requirements.

Note The academic requirements for the award of an academic qualification do not include the formal conferral of the award. Therefore, a person can *complete* a principal course, for this Part, before the award is formally conferred.

principal course has the meaning given in regulation 1.40.

442.2 Primary criteria

Note 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.

442.21 Criteria to be satisfied at time of application

Note If the application is made outside Australia, there are no criteria to be satisfied at time of application.

- 442.211 If the applicant is in the migration zone at the time of application:
- (a) the applicant holds a substantive visa, other than:
 - (i) a Subclass 560 (Student) visa; or
 - (ii) a Subclass 562 (Iranian Postgraduate Student) visa; or
 - (iii) a Subclass 563 (Iranian Postgraduate Student Dependant) visa; or
 - (iv) a Subclass 571 (Schools Sector) visa; or
 - (v) a Subclass 576 (AusAID or Defence Sector) visa; or
 - (vi) a Subclass 771 (Transit) visa; or
 - (vii) a special purpose visa; or
 - (b) if the applicant does not hold a substantive visa at the time of application:
 - (i) the last substantive visa held by the applicant was not a visa mentioned in subparagraphs (a) (i) to (vii); and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005.

442.22 Criteria to be satisfied at time of decision

442.221 If:

- (a) the application is made outside Australia; or
- (b) the application is made in the migration zone and the applicant does not hold a Subclass 442 visa;

the applicant satisfies the criteria in clauses 442.222 to 442.229.

- 442.222 (1) Except in the case of an application made in relation to occupational training to be provided by the Commonwealth, a nomination in respect of the occupational training has been lodged and has been approved by the Minister.
- (2) The reference in subclause (1) to occupational training to be provided by the Commonwealth includes occupational training to be provided by:

-
- (a) a body corporate incorporated for a public purpose by an Act or regulations made under an Act; or
- (b) an authority or body, not being a body corporate, established for a public purpose by, or under, an Act or regulations made under an Act.
- (3) The nomination mentioned in subclause (1) in respect of an applicant must include a declaration that the applicant will be engaged or employed under Australian Industrial Relations law and relevant Commonwealth, State or Territory awards and conditions for the industry in which the applicant will undertake occupational training.
- 442.223 The Minister is satisfied:
- (a) that the occupational training that is proposed:
- (i) is workplace-based; and
- (ii) will give the applicant additional or enhanced skills that the applicant will be able to utilise in the applicant's employment; and
- (b) that occupational opportunities available to Australian citizens or permanent residents of Australia will not be adversely affected if the visa is granted.
- 442.224 The Minister is satisfied that the applicant is a genuine applicant for entry to Australia as an occupational trainee.
- 442.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
- (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (b) gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 442.226 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 442.227 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

- 442.228 If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 442.229 (1) This clause applies to an applicant if the application is made in the migration zone and:
- (a) at the time of making the application, the applicant was the holder of a visa of one of the following subclasses:
 - (i) Subclass 570 (Independent ELICOS Sector);
 - (ii) Subclass 572 (Vocational Education and Training Sector);
 - (iii) Subclass 573 (Higher Education Sector);
 - (iv) Subclass 574 (Postgraduate Research Sector);
 - (v) Subclass 575 (Non-Award Sector); or
 - (b) at the time of making the application:
 - (i) the applicant was not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was a visa of a subclass mentioned in paragraph (a).
- (2) If this clause applies to the applicant, the applicant satisfies the Minister that:
- (a) the applicant:
 - (i) has completed the principal course, at the diploma level or higher, in Australia in relation to which:
 - (A) the visa held by the applicant at the time of application; or
 - (B) if the applicant was not the holder of a substantive visa at the time of application — the last substantive visa held by the applicant; was granted; and
 - (ii) seeks to undertake occupational training closely related to the principal course; and
 - (iii) would complete the occupational training within 12 months; or

-
- (b) the applicant:
- (i) has completed the principal course in Australia in relation to which:
 - (A) the visa held by the applicant at the time of application; or
 - (B) if the applicant was not the holder of a substantive visa at the time of application — the last substantive visa held by the applicant; was granted; and
 - (ii) must complete a period of practical employment experience in order to obtain registration in a profession in which registration is a prerequisite for the practice of the profession in:
 - (A) the applicant's usual country of residence; or
 - (B) Australia.
- 442.230 If the application is made in the migration zone and the applicant was at the time of application, the holder of a Subclass 442 visa, the applicant satisfies the Minister that there is no reason to believe that the applicant does not continue to satisfy the primary criteria for the grant of a Subclass 442 visa.
- 442.231 (1) For all applications, if the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 442.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

442.233

- (1) Either:
 - (a) the applicant has turned 18; or
 - (b) the applicant has not turned 18, and the Minister is satisfied that exceptional circumstances exist for the grant of the visa.
- (2) If the applicant has not turned 18, public interest criteria 4012, 4017 and 4018 are satisfied in relation to the applicant.

442.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

442.31 Criteria to be satisfied at time of application

442.311

The applicant is a member of the family unit of a person who has applied for a Subclass 442 visa.

442.312

If the application is made outside Australia and the application is made separately from that of the family unit member satisfying the primary criteria:

- (a) that family unit member is, or is expected soon to be, in Australia; and
- (b) the applicant intends to stay temporarily in Australia as a member of that family unit.

442.32 Criteria to be satisfied at time of decision

442.321

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 442 visa.

442.322

The member of the family unit who satisfies the primary criteria produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant, taking into account the working rights of both that family unit member and the applicant.

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- 442.323 The applicant:
- (a) in all cases, satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) in the case of an applicant who seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 442.324 If the application is made outside Australia and if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 442.324A If the application is made in the migration zone, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 442.325 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 442.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 442.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

442.4 Circumstances applicable to grant

- 442.411 If the application is made in the migration zone, the applicant must be in the migration zone at the time of grant.
- 442.412 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

442.5 When visa is in effect

- 442.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister for the purpose.

442.6 Conditions

- 442.611 If the applicant meets the primary criteria, conditions 8102 and 8501.
- 442.612 If the applicant meets the secondary criteria, conditions 8104 and 8501.
- 442.613 Any 1 or more of conditions 8106, 8107, 8301, 8303, 8501, 8502, 8503, 8516, 8522, 8525 and 8526 may be imposed.

442.7 Way of giving evidence

- 442.711 No evidence need be given.
- 442.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 444 Special Category

444.1 Interpretation

Note No interpretation provisions specific to this Part.

444.2 Primary criteria

Note The only criteria are those set out in paragraph 32 (2) (a) of the Act and in regulation 5.15A. Under paragraph 32 (2) (a) of the Act, the requirements are: that the applicant is a New Zealand citizen; that the applicant holds, and has presented to an officer or an authorised system, a New Zealand passport that is in force; and that the applicant is neither a behaviour concern non-citizen nor a health concern non-citizen.

The terms *behaviour concern non-citizen* and *health concern non-citizen* are defined in subsection 5 (1) of the Act. Prescribed diseases in respect of a health concern non-citizen are set out in regulation 5.16. The definition of *behaviour concern non-citizen* includes a person who has been excluded from another country in certain circumstances. Those circumstances are set out in regulation 5.15.

Paragraph 32 (2) (c) of the Act allows other classes of persons to be declared by the regulations as classes of persons for whom a visa of another class would be inappropriate, and the declaration of a class of persons is to be found in regulation 5.15A.

Under regulation 5.15A, the requirements are that the applicant is a New Zealand citizen who holds, and has presented to an officer, a New Zealand passport that is in force; that the applicant is not a health concern non-citizen; and that the applicant is a behaviour concern non-citizen only because he or she has been excluded from another country in circumstances that, in the Minister's opinion, do not warrant the exclusion of the applicant from Australia.

444.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

444.4 Circumstances applicable to grant

444.411 At the time of grant, the applicant must:

- (a) be in Australia; or

- (b) intend to travel to Australia on a pre-cleared flight and be in immigration clearance at a port outside Australia at which pre-clearance procedures are carried out.

Note For *pre-cleared flight* see the Act, s 17.

444.5 When visa is in effect

- 444.511 Temporary visa permitting the holder to remain in Australia while the holder is a New Zealand citizen.

444.6 Conditions: Nil.

444.7 Way of giving evidence

- 444.711 No evidence need be given.

- 444.712 If evidence is given, to be given as follows:

- (a) if the grant is made in immigration clearance — by a port and date stamp placed in the passport of the holder;
- (b) if the grant is made in Australia after immigration clearance — by a *special category visa holder* stamp placed in the passport of the holder;
- (c) if the grant is made at an airport outside Australia at which pre-clearance procedures are carried out — by a *pre-cleared* stamp placed in the passport of the holder.

Subclass 445 Dependent Child

445.1 Interpretation

- 445.111 For this Part, the parent of an applicant is a *visa-holding parent* if he or she holds any of the following visas:

- (a) Subclass 309 (Spouse (Provisional));
- (aa) Subclass 309 (Partner (Provisional));
- (b) Subclass 310 (Interdependency (Provisional));
- (c) Subclass 445 (Dependent Child);
- (d) Subclass 820 (Spouse);
- (da) Subclass 820 (Partner);

(e) Subclass 826 (Interdependency).

Note For *dependent child*, see regulation 1.03.

445.2 Primary criteria

Note All applicants must satisfy the primary criteria.

445.21 Criteria to be satisfied at time of application

445.211 The applicant:

- (a) is a dependent child of a visa-holding parent; and
- (b) is sponsored by the nominator or sponsor of the visa-holding parent.

445.22 Criteria to be satisfied at time of decision

445.221 The parent of the applicant continues to be a visa-holding parent.

445.222 The applicant continues to be a dependent child of the visa-holding parent.

445.223 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) The applicant meets the requirements of this subclause if he or she continues to be sponsored by the nominator or sponsor of the visa-holding parent.

(3) The applicant meets the requirements of this subclause if:

- (a) either:
 - (i) the nominator or sponsor of the visa-holding parent has died; or
 - (ii) the relationship between the visa-holding parent and his or her nominator or sponsor has ceased, and either:
 - (A) the visa-holding parent has requested consideration under provisions relating to family violence in Subclass 100, 110, 801 or 814; or

(B) the visa-holding parent has requested consideration under provisions relating to parental arrangements for a child in Subclass 100 or 801; and

(b) the applicant is sponsored by the visa-holding parent.

(4) The applicant meets the requirements of this subclause if:

(a) the applicant is a dependent child of a parent holding a Subclass 445 visa; and

(b) the circumstances mentioned in subparagraph (3) (a) (i), or sub-subparagraph (3) (a) (ii) (A) or (B) apply; and

(c) the applicant is sponsored by the person who is required to satisfy the primary criteria in Subclass 100, 110, 801 or 814.

Note For special provisions relating to family violence, see Division 1.5.

445.224 The sponsorship mentioned in clause 445.223 has been approved by the Minister and is still in force.

445.225 The applicant:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and

(b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

445.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

445.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 445 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and

(b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 445 visa is a person who:

(a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criteria 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

445.228 If a person (the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

445.229 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

445.3 Secondary criteria

Note These criteria must be satisfied by applicants who are dependent children of, and who have made a combined application with, the person who satisfies the primary criteria.

445.31 Criteria to be satisfied at time of application

445.311 The applicant is a dependent child of, and made a combined application with, the person who satisfies the primary criteria for a Subclass 445 visa.

445.312 The sponsorship mentioned in paragraph 445.211 (c) for the person who satisfies the primary criteria also includes sponsorship of the applicant.

445.32 Criteria to be satisfied at time of decision

445.321 The applicant continues to be a dependent child of the person who, having satisfied the primary criteria, is the holder of a Subclass 445 visa.

- 445.322 The sponsorship mentioned in clause 445.223 for the person who satisfies the primary criteria also includes sponsorship of the applicant.
- 445.323 The sponsorship mentioned in clause 445.322 has been approved by the Minister and is still in force.
- 445.324 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 445.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied, in relation to the applicant.
- 445.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

445.4 Circumstances applicable to grant

- 445.411 If the application is made outside Australia, the applicant must be outside Australia when the visa is granted.
- 445.412 If the application is made in Australia, the applicant must be in Australia when the visa is granted.

445.5 When a visa is in effect

- 445.511 Temporary visa permitting the holder to travel to, enter and remain in Australia within the visa period of the Extended Eligibility (Temporary) (Class TK) visa, Interdependency (Provisional) (Class UG) visa, Spouse (Provisional) (Class UF) visa, Partner (Provisional) (Class UF) visa or Partner (Temporary) (Class UK) visa held by the person on whom the applicant is dependent.

445.6 Conditions: Nil.

445.7 Way of giving evidence

445.711 No evidence need be given.

445.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 448 Kosovar Safe Haven
(Temporary)**

448.1 Interpretation

Note No interpretation provisions specific to this Part.

448.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

448.21 [No criteria to be satisfied at time of application]

448.22 Criteria to be satisfied at time of decision

448.221 (1) The applicant meets the requirements of subclause (2) or (3).

(2) The applicant meets the requirements of this subclause if the applicant:

- (a) was resident in Kosovo in the Federal Republic of Yugoslavia on 25 March 1999; and
- (b) has been displaced from Kosovo since 25 March 1999.

(3) The applicant meets the requirements of this subclause if the applicant:

- (a) is a member of the immediate family of a holder of a Subclass 448 visa (the visa holder); and

- (b) was a member of the visa holder's immediate family when the visa holder was first granted a Subclass 448 visa.
- 448.223 Grant of the visa would not result in either:
- (a) the number of Subclass 448 visas granted in a financial year exceeding the maximum number of Subclass 448 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 448, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 448.224 The applicant satisfies public interest criteria 4002 and 4003.
- 448.225 If the applicant is outside Australia, the applicant has undergone a medical examination carried out by a medical practitioner approved by the Minister.
- 448.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

448.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

448.31 [No criteria to be satisfied at time of application]

448.32 Criteria to be satisfied at time of decision

- 448.321 The applicant:
- (a) is a member of the family unit of a person who, having met the requirements of subclause 448.221 (2), is the holder of a Subclass 448 visa; or
 - (b) is a member of the immediate family of a person who, having met the requirements of subclause 448.221 (3), is the holder of a Subclass 448 visa.
- 448.322 The applicant satisfies public interest criteria 4002 and 4003.

448.323 If the applicant is outside Australia, the applicant has undergone a medical examination carried out by a medical practitioner approved by the Minister.

448.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

448.4 Circumstances applicable to grant

448.411 The applicant may be in, or outside, Australia at time of grant.

448.5 When visa is in effect

448.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

448.6 Conditions

448.611 If the applicant is outside Australia at time of grant, conditions 8104, 8506 and 8529.

448.612 If the applicant is in Australia at time of grant, conditions 8104 and 8506.

448.613 Condition 8303 may be imposed.

448.7 Way of giving evidence

448.711 No evidence need be given.

448.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 449 Humanitarian Stay (Temporary)

449.1 Interpretation

Note No interpretation provisions specific to this Part.

449.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. Other members of the family unit, or members of the immediate family of a person, who are applicants for a visa of this subclass need satisfy only the secondary criteria.

449.21 [No criteria to be satisfied at time of application]

449.22 Criteria to be satisfied at time of decision

- 449.221 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant has been displaced from his or her place of residence, and:
- (i) cannot reasonably return to that place of residence; and
 - (ii) is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, he or she was displaced from that place of residence; or
- (b) the applicant has not been displaced from his or her place of residence, but:
- (i) there is a strong likelihood that the applicant will be displaced from that place of residence; and
 - (ii) the applicant is in grave fear of his or her personal safety because of the circumstances in which, or reasons why, the applicant may be displaced from that place of residence.

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- (3) The applicant meets the requirements of this subclause if the applicant:
- (a) is a member of the immediate family of a holder of a Subclass 449 visa (*the visa holder*); and
 - (b) was a member of the visa holder's immediate family when the visa holder was first granted a Subclass 449 visa.
- 449.223 Grant of the visa would not result in either:
- (a) the number of Subclass 449 visas granted in a financial year exceeding the maximum number of Subclass 449 visas, as determined by Gazette Notice, that may be granted in that financial year; or
 - (b) the number of visas of particular classes, including Subclass 449, granted in a financial year exceeding the maximum number of visas of those classes, as determined by Gazette Notice, that may be granted in that financial year.
- 449.224 (1) The applicant satisfies public interest criteria 4002 and 4003A.
- (2) The applicant satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

449.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit, or members of the immediate family, of a person who satisfies the primary criteria.

449.31 [No criteria to be satisfied at time of application]

449.32 Criteria to be satisfied at time of decision

- 449.321 The applicant:
- (a) is a member of the family unit of a person who, having met the requirements of subclause 449.221 (2), is the holder of a Subclass 449 visa; or

(b) is a member of the immediate family of a person who, having met the requirements of subclause 449.221 (3), is the holder of a Subclass 449 visa.

449.322 (1) The applicant satisfies public interest criteria 4002 and 4003A.

(2) The applicant satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

449.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

449.4 Circumstances applicable to grant

449.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

449.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

449.5 When visa is in effect

449.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

449.6 Conditions

449.611 Condition 8506.

449.612 Condition 8101 or 8104 may be imposed.

449.612A Condition 8303 may be imposed.

449.613 If the Minister is satisfied that it would be unreasonable to require an applicant to undergo assessment in relation to criterion 4007, condition 8529.

Note See subclauses 449.224 (2) and 449.322 (2).

449.7 Way of giving evidence

449.711 No evidence need be given.

449.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 450 Resolution of Status — Family Member (Temporary)

450.1 Interpretation

Note *dependent child* is defined in regulation 1.03, *member of the family unit* in regulation 1.12, and *member of the immediate family* in regulation 1.12AA. There are no interpretation provisions specific to this Part.

450.2 Primary criteria

Note All applicants must satisfy the primary criteria.

450.21 Criteria to be satisfied at time of application

450.211 The applicant:

- (a) is either:
- (i) a member of the immediate family of a person (*the sponsor*) who:
 - (A) has made an application for a Resolution of Status (Temporary) (Class UH) visa mentioned in paragraph 1216A (3) (a) of Schedule 1; and
 - (B) on the basis of the information provided in that application, appears to satisfy the criteria in Subdivision 850.21; or
 - (ii) a dependent child of the spouse or de facto partner of the sponsor, being a spouse or de facto partner who is an applicant for a Resolution of Status (Temporary) (Class UH) visa; and
- (b) is sponsored by the sponsor.

450.212 The applicant:

- (a) was, on 13 June 1997, a member of the immediate family of the sponsor; or

- (b) became a dependent child of the sponsor after that date; or
 - (c) was, on 13 June 1997, a dependent child of the spouse or de facto partner of the sponsor.
- 450.213 In the application, by the sponsor, that is mentioned in sub-subparagraph 450.211 (a) (i) (A), the applicant is:
- (a) identified as:
 - (i) a member of the immediate family of the sponsor, except if the applicant became a dependent child of the sponsor after that date; or
 - (ii) a dependent child of the spouse or de facto partner of the sponsor; and
 - (b) sponsored by the sponsor.
- 450.22 Criteria to be satisfied at time of decision**
- 450.221 The applicant continues to satisfy clause 450.211 and the sponsor is a person who, having satisfied the primary criteria, is the holder of a Subclass 850 (Resolution of Status (Temporary)) or Subclass 851 (Resolution of Status) visa.
- 450.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.
- 450.223 Each member of the family unit of the applicant who is not an applicant for a Subclass 450 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 450.224 If the applicant is, or has been, a student under a scholarship scheme or training program approved by AusAID:
- (a) the applicant made the application more than 2 years after the applicant's departure from Australia on ceasing the course of studies under the scheme or program; or
 - (b) the applicant has the support in writing of AusAID for the grant of the visa.

450.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

450.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

450.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

450.4 Circumstances applicable to grant

450.411 The applicant must be outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

450.5 When visa is in effect

450.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia until a date specified by the Minister; and
- (b) to remain in Australia until the end of the day on which:
 - (i) the holder is notified that the holder's application for a Resolution of Status (Residence) (Class BL) visa has been decided; or
 - (ii) that application is withdrawn.

450.6 Conditions

450.611 First entry must be made before a date specified by the Minister for the purpose.

450.612 Condition 8515 may be imposed.

450.7 Way of giving evidence

450.711 Visa label affixed to a valid passport.

Subclass 456 Business (Short Stay)

456.1 Interpretation

Note No interpretation provisions specific to this Part.

456.2 Primary criteria

456.21 Criteria to be satisfied at time of application

456.211 The applicant:

- (a) seeks to enter Australia temporarily for business purposes; and
- (aa) has personal attributes and business background that are relevant to, and consistent with, the nature of the applicant's proposed business in Australia; and
- (ab) demonstrates that there is need for the applicant to be in Australia for business purposes; and
- (b) proposes in the application to remain in Australia for not more than 3 months on any single occasion; and
- (c) has adequate funds for personal support during the period of his or her stay in Australia on each such occasion.

456.212 The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

456.213 The applicant does not intend to engage in:

- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or
- (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.

456.22 Criteria to be satisfied at time of decision

- 456.221 (1) The applicant meets the requirements of subclause (2) or (4).
- (2) The applicant meets the requirements of this subclause if:
- (a) the applicant continues to satisfy the criteria in clauses 456.211 and 456.212; and
- (b) the applicant satisfies the Minister that the expressed intention of the applicant only to stay in Australia temporarily for business purposes is genuine; and
- (c) satisfies:
- (i) public interest criteria 4001, 4002, 4003, 4004, 4011, 4013 and 4014; and
- (ii) except where the applicant is a person to whom subclause (4) applies, public interest criterion 4005; and
- (d) if the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002; and
- (4) The applicant is a person to whom this subclause applies if:
- (a) privileges and immunities are, or are expected to be, accorded to the applicant under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*; and
- (b) the Foreign Minister has recommended in writing to the Minister that the applicant should be granted the visa.
- 456.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or

- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

456.223 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

456.3 Secondary criteria

456.31 Criteria to be satisfied at the time of application

456.311 The applicant is the spouse, de facto partner or a dependent child, of a person who is an applicant for a Temporary Business Entry (Class UC) visa who seeks a visa to remain in Australia (whether or not also a visa to travel to and enter Australia) for a period, or periods, of 3 months or less.

456.313 The applicant does not intend to engage in:

- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or
- (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.

456.32 Criteria to be satisfied at time of decision

456.321 The applicant is a spouse, de facto partner or dependent child of a person who, having satisfied the primary criteria, is the holder of a Subclass 456 visa.

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- 456.322 The applicant, or the person who satisfies the primary criteria, produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant.
- 456.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4011, 4013 and 4014; and
 - (b) except where the applicant is the spouse, de facto partner or a dependent child, of a person to whom subclause 456.221 (4) applies — satisfies public interest criterion 4005.
- 456.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 456.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 456.327 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine.
- 456.328 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 456.329 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

456.4 Circumstances applicable to grant

456.411 The applicant must be outside Australia at the time of grant.

456.5 When visa is in effect

456.511 Subject to clause 456.514, a temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions, as specified by the Minister, until a date, not later than 10 years after the date of grant of the visa, specified by the Minister; and
- (b) to remain in Australia after each entry for a period, not longer than 3 months, specified by the Minister.

456.514 If the visa is granted to the spouse, de facto partner or a dependent child of another person who is the holder of a Subclass 456 visa — a temporary visa having the same effect as the visa granted to that other person.

456.6 Conditions

456.611 Condition 8112 must be imposed.

456.612 Condition 8503 may be imposed.

456.7 Way of giving evidence

456.711 No evidence need be given.

456.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 457 Business (Long Stay)

457.1 Interpretation

457.111 (1) In this Part:

approved business nomination means a nomination approved under regulation 1.20H.

officer, for a corporation, means an officer of the corporation within the meaning of the *Corporations Act 2001*.

person includes an unincorporated body of persons.

pre-qualified business sponsor has the same meaning as in Division 1.4A.

standard business sponsor has the same meaning as in Division 1.4A.

(2) For the purposes of this Part, a business activity is of benefit to Australia if:

- (a) the conduct of the activity contributes to:
 - (i) the creation or maintenance of employment for Australian citizens or Australian permanent residents; or
 - (ii) expansion of Australian trade in goods or services; or
 - (iii) the improvement of Australian business links with international markets; or
 - (iv) competitiveness within sectors of the Australian economy; and
- (b) the operator of the business:
 - (i) introduces to, or utilises or creates in, Australia new or improved technology or business skills; or
 - (ii) has a satisfactory record of, or a demonstrated commitment towards, training Australian citizens and Australian permanent residents in the business in Australia.

Note **AUD**, **Internet application**, **ownership interest**, **RHQ agreement** and **IASS agreement** are defined in regulation 1.03.

457.2 Primary criteria

Note The primary criteria must be satisfied by at least one applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

457.21 Criteria to be satisfied at time of application

457.211 If the applicant is in Australia:

- (a) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Business (Temporary) (Class TB);
 - (B) Cultural/Social (Temporary) (Class TE);
 - (C) Educational (Temporary) (Class TH);
 - (D) Expatriate (Temporary) (Class TJ);
 - (E) Family Relationship (Temporary) (Class TL);
 - (F) Interdependency (Temporary) (Class TM);
 - (G) Medical Practitioner (Temporary) (Class UE);
 - (H) Retirement (Temporary) (Class TQ);
 - (I) Superyacht Crew (Temporary) (Class UW);
 - (J) Supported Dependant (Temporary) (Class TW);
 - (K) Working Holiday (Temporary) (Class TZ); or
 - (J) Working Holiday (Temporary) (Class TZ); or
 - (ii) a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 457;
 - (D) Subclass 471 (Trade Skills Training) visa;
 - (E) Subclass 988 (Maritime Crew) visa;
 - (F) Subclass 476 (Skilled — Recognised Graduate);
 - (G) Subclass 485 (Skilled — Graduate); or
- (b) the applicant is the holder of:
 - (i) a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Electronic Travel Authority (Class UD);
 - (C) Long Stay (Visitor) (Class TN);
 - (D) Short Stay (Visitor) (Class TR);

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- (E) Student (Temporary) (Class TU);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a Subclass 456 (Business (Short Stay)) visa; or
 - (c) the applicant is the holder of a Confirmatory (Temporary) (Class TD) visa granted on the grounds that the applicant satisfied the criteria for a visa specified in paragraph (a) or (b); or
 - (ca) the applicant is the holder of a Subclass 497 (Graduate — Skilled) visa; or
 - (d) the applicant is not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (a), (c) or (ca); and
 - (ii) the applicant satisfies Schedule 3 criteria 3003, 3004 and 3005; or
 - (e) the applicant is not the holder of a substantive visa and:
 - (i) the last substantive visa held by the applicant was of a kind specified in paragraph (b); and
 - (ii) the applicant satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.
- 457.212 (1) If the applicant is the holder of a Student (Temporary) (Class TU) visa and is a fully funded student within the meaning given by clause 5A103, the Minister is satisfied that it would not be detrimental to Australia's policies in relation to overseas students to grant the visa.
- (2) Subclause (1) does not apply to an applicant who meets the requirements of subclause 457.223 (3) or (10).

457.22 Criteria to be satisfied at time of decision

457.221 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

457.221A If:

- (a) the applicant is in Australia; and

- (b) the applicant was outside Australia at the time of application;

the applicant is the holder of a visa mentioned in paragraph 457.211 (a), (b), (c) or (ca).

- 457.223 (1) The applicant meets the requirements of subclause (2), (3), (4), (5), (7A), (8), (9) or (10).

Labour agreements

- (2) The applicant meets the requirements of this subclause if:
- (a) the activity specified in the application is the subject of a labour agreement; and
- (b) the activity is the subject of an approved business nomination by a person who:
- (i) is party to the labour agreement mentioned in paragraph (a) at the time of the nomination; or
- (ii) was a standard business sponsor at the time of nomination and subsequently became a party to the labour agreement mentioned in paragraph (a); and
- (c) the applicant is nominated by a party to the labour agreement; and
- (d) the Minister is satisfied that:
- (i) the skills and experience of the applicant are suitable for the performance of the activity; and
- (ii) the requirements of the labour agreement have been met in relation to the application.

RHQ agreements

- (3) The applicant meets the requirements of this subclause if:
- (a) the activity specified in the application is the subject of an RHQ agreement; and
- (b) the applicant has lodged with the application a statement that:
- (i) identifies the applicant as a person who is to be employed in the regional headquarters of a business in Australia; and

- (ii) identifies the RHQ agreement by the number given to the agreement.

Sponsorship — Australian business

- (4) The applicant meets the requirements of this subclause if:
 - (a) the activity in which the applicant proposes to be employed in Australia by a person (the **employer**) is the subject of an approved business nomination by the employer; and
 - (b) the employer is:
 - (i) either:
 - (A) a pre-qualified business sponsor; or
 - (B) a standard business sponsor approved under regulation 1.20D as in force before, on or after 1 July 2003; and
 - (ii) the employer mentioned in subparagraph 1223A (3) (d) (i); and
 - (ba) if:
 - (i) the employer is a standard business sponsor; and
 - (ii) the employer's business activities include activities relating to either or both of:
 - (A) the recruitment of labour for supply to other unrelated businesses; and
 - (B) the hiring of labour to other unrelated businesses;

the activity in which the applicant proposes to be employed in Australia must be an activity in the sponsor's business, and must not be an activity that involves a position that would be supplied to another unrelated business, unless the nomination that was approved in relation to the activity was made before 1 October 2007; and

 - (c) the applicant is nominated, in accordance with approved form 1068, 1196 or 1196 (Internet), in relation to the activity by the employer; and

- (d) the applicant has personal attributes and an employment background that are relevant to, and consistent with, the nature of the activity to be performed; and
- (e) the applicant demonstrates, if so required by the Minister, that he or she has the skills necessary to perform the activity; and
- (ea) if:
 - (i) the applicant would be required to hold a licence, registration or membership that is mandatory for the performance of the activity nominated in relation to the applicant; and
 - (ii) in order to obtain the licence, registration or membership, the applicant would need to demonstrate a level of English language proficiency equivalent to the level of English language proficiency that is required to achieve an IELTS test average band score of more than 5 based on the 4 test components of speaking, reading, writing and listening;the applicant has proficiency in English of at least the standard required for the grant (however described) of the licence, registration or membership; and
- (eb) if:
 - (i) the applicant is not an exempt applicant; and
 - (ii) subclause (6) does not apply to the applicant; and
 - (iii) at least 1 of subparagraphs (ea) (i) and (ii) does not apply;the applicant has a level of English language proficiency equivalent to at least the level of English language proficiency that is required to achieve an IELTS test average band score of 5 based on the 4 test components of speaking, reading, writing and listening; and
- (ec) the applicant demonstrates, if so required by the Minister, his or her English language proficiency; and
- (ed) for an applicant in respect of whom there is a nomination of an activity under regulation 1.20G — the tasks of the activity correspond to the tasks of an occupation that is specified in a Gazette Notice for

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- subregulation 1.20G (2) that is in effect at the time at which the application is decided; and
- (ee) for an applicant in respect of whom there is a nomination of an activity under regulation 1.20GA — the tasks of the activity correspond to the tasks of an occupation that is specified in a Gazette Notice for paragraph 1.20GA (1) (a) that is in effect at the time at which the application is decided; and
 - (f) for an applicant in respect of whom there is a nomination of an activity under regulation 1.20G — the Minister is satisfied that:
 - (i) the applicant will be paid at the level specified in the nomination; and
 - (ii) that level will be at least the minimum salary level that applies at the time the decision on the visa application is made; and
 - (g) for an applicant in respect of whom there is a nomination of an activity under regulation 1.20GA — the Minister is satisfied that:
 - (i) the applicant will be paid at the level specified in the nomination; and
 - (ii) that level will be not less than the level of remuneration provided for under relevant Australian legislation and awards; and
 - (iii) the level will be at least the minimum salary level that applies when the decision on the visa application is made; and
 - (iv) the applicant's working conditions will be no less favourable than working conditions provided for under relevant Australian legislation and awards; and
 - (h) for a standard business sponsor — the Minister is satisfied that the position to be filled by the applicant has not been created only for the purposes of securing the entry of the applicant to Australia; and
 - (i) the applicant is sponsored by an approved sponsor within the meaning of section 140D of the Act; and

- (j) subject to clause 457.223A, the Minister is satisfied that nothing adverse is known to Immigration about the business background of:
 - (i) the approved sponsor mentioned in paragraph 457.223 (4) (i); or
 - (ii) any officer or other senior or responsible person of any of the entities that constitute the approved sponsor mentioned in paragraph 457.223 (4) (i); or
 - (iii) any individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the approved sponsor mentioned in paragraph 457.223 (4) (i); and
- (k) subject to clause 457.223A, the Minister is satisfied that:
 - (i) the approved sponsor mentioned in paragraph 457.223 (4) (i) is not under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; and
 - (ii) no officer or other senior or responsible person of any of the entities that constitute the approved sponsor mentioned in paragraph 457.223 (4) (i) is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; and
 - (iii) no individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the approved sponsor mentioned in paragraph 457.223 (4) (i):
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or

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- (B) an alleged breach of a law of the Commonwealth or a State or Territory.

Sponsorship — overseas business

- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant proposes to be employed in Australia by a person (the *employer*) who does not operate a business activity in Australia; and
 - (b) that activity is the subject of an approved business nomination by the employer made under regulation 1.20G; and
 - (ba) for an applicant in respect of whom there is a nomination of an activity under regulation 1.20G — the tasks of the activity correspond to the tasks of an occupation that is specified in a Gazette Notice for subregulation 1.20G (2) that is in effect at the time at which the application is decided; and
 - (c) either:
 - (i) the employer is a standard business sponsor approved under regulation 1.20DA; or
 - (ii) before 1 July 2003, the employer:
 - (A) did not operate a business in Australia; and
 - (B) gave the Minister undertakings in accordance with approved form 1067; and
 - (C) was a person whom the Minister was satisfied (apart from not operating a business in Australia) would, on application, have been likely to have been approved as a standard business sponsor; and
 - (ca) if:
 - (i) the employer is a standard business sponsor; and
 - (ii) the employer's business activities include activities relating to either or both of:
 - (A) the recruitment of labour for supply to other unrelated businesses; and

(B) the hiring of labour to other unrelated businesses;

the activity in which the applicant proposes to be employed in Australia must be an activity in the sponsor's business, and must not be an activity that involves a position that would be supplied to another unrelated business, unless the nomination that was approved in relation to the activity was made before 1 October 2007; and

- (d) the applicant is nominated, in accordance with approved form 1068 or 1196, in relation to the activity by the employer; and
- (e) the applicant demonstrates, if so required by the Minister, that he or she has the skills necessary to perform the activity; and
- (f) the applicant has personal attributes and an employment background that are relevant to, and consistent with, the nature of the activity to be performed; and
- (fa) if:
 - (i) the applicant would be required to hold a licence, registration or membership that is mandatory for the performance of the activity nominated in relation to the applicant; and
 - (ii) in order to obtain the licence, registration or membership, the applicant would need to demonstrate a level of English language proficiency equivalent to the level of English language proficiency that is required to achieve an IELTS test average band score of more than 5 based on the 4 test components of speaking, reading, writing and listening;the applicant has proficiency in English of at least the standard required for the grant (however described) of the licence, registration or membership; and
- (fb) if:
 - (i) the applicant is not an exempt applicant; and
 - (ii) subclause (6) does not apply to the applicant; and

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- (iii) at least 1 of subparagraphs (fa) (i) and (ii) does not apply;
- the applicant has a level of English language proficiency equivalent to at least the level of English language proficiency that is required to achieve an IELTS test average band score of 5 based on the 4 test components of speaking, reading, writing and listening; and
- (fc) the applicant demonstrates, if so required by the Minister, his or her English language proficiency; and
- (g) the Minister is satisfied that the position to be filled by the applicant has not been created only for the purposes of securing the entry of the applicant to Australia; and
- (h) the Minister is satisfied that:
- (i) the applicant will be paid at the level specified in the nomination; and
 - (ii) that level will be at least the minimum salary level that applied at the time the nomination was made; and
- (i) the Minister is satisfied that the applicant has a genuine and realistic commitment to:
- (i) establish, or assist in establishing, on behalf of the employer, a business activity in Australia with overseas connections; or
 - (ii) fulfil, or assist in fulfilling, contractual obligations of the employer;
- that will be of benefit to Australia; and
- (j) the applicant is sponsored by an approved sponsor within the meaning of section 140D of the Act; and
- (k) subject to clause 457.223A, the Minister is satisfied that nothing adverse is known to Immigration about the business background of:
- (i) the approved sponsor mentioned in paragraph 457.223 (5) (j); or
 - (ii) any officer or other senior or responsible person of any of the entities that constitute the approved sponsor mentioned in paragraph 457.223 (5) (j); or
 - (iii) any individual who is a member of a partnership or unincorporated association that is 1 of the entities

- that constitute the approved sponsor mentioned in paragraph 457.223 (5) (j); and
- (l) subject to clause 457.223A, the Minister is satisfied that:
 - (i) the approved sponsor mentioned in paragraph 457.223 (5) (j) is not under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; and
 - (ii) no officer or other senior or responsible person of any of the entities that constitute the approved sponsor mentioned in paragraph 457.223 (5) (j) is under investigation or subject to legal action in relation to:
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory; and
 - (iii) no individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the approved sponsor mentioned in paragraph 457.223 (5) (j):
 - (A) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (B) an alleged breach of a law of the Commonwealth or a State or Territory.
 - (6) This subclause applies to an applicant if:
 - (a) the applicant will be paid, in connection with the activity nominated in relation to the applicant, a level of salary that is at least the level of salary worked out in a way specified by the Minister in an instrument in writing for this paragraph; and

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- (b) the Minister considers that granting a Subclass 457 visa to the applicant would be in the interests of Australia.

Independent executives

(7) The applicant meets the requirements of this subclause if the Minister is satisfied that:

- (a) the applicant proposes to develop in Australia a business activity that will be:
- (i) conducted by the applicant as a principal; and
 - (ii) of benefit to Australia; and
- (b) the applicant has a genuine and realistic commitment:
- (i) to maintain or obtain an ownership interest in a business in Australia; and
 - (ii) to maintain a direct and continuous involvement in the management of the business; and
 - (iii) to make decisions that affect the overall direction and performance of the business from day to day; and
- (c) nothing adverse is known to Immigration about the applicant's business background; and
- (d) the applicant has net assets of:
- (i) not less than AUD250,000; or
 - (ii) a lesser amount that the Minister considers to be adequate;
- to conduct or establish the business; and
- (e) the applicant has personal attributes and background that are relevant to, and consistent with, the nature of the proposed business; and
- (f) the applicant has demonstrated that there is need for the applicant to be temporarily resident in Australia to conduct or establish the proposed business.

(7A) The applicant meets the requirements of this subclause if:

- (a) either:
- (i) the applicant holds a Subclass 457 visa granted on the basis that:

- (A) the applicant met the requirements of subclause (7); or
 - (B) the applicant met the requirements of Subdivision 457.32 as the spouse or de facto partner of a person who held a Subclass 457 visa granted on the basis that he or she met the requirements of subclause (7); or
 - (ii) the applicant does not hold a substantive visa, and the last substantive visa held by the applicant was of a kind mentioned in subparagraph (i); and
- (b) on the day on which the application is made:
- (i) the applicant had been conducting the business in Australia as a principal for at least 15 months; or
 - (ii) if the applicant had been conducting the business in Australia as a principal for less than 15 months — a government of a State or Territory had endorsed the business as beneficial to the State or Territory; and
- (c) the Minister is satisfied that:
- (i) the business is of benefit to Australia; and
 - (ii) the applicant has a genuine and realistic commitment:
 - (A) to maintain an ownership interest in the business; and
 - (B) to maintain a direct and continuous involvement in the management of the business; and
 - (C) to make decisions that affect the overall direction and performance of the business from day to day; and
 - (iii) nothing adverse is known to Immigration about the applicant's business background; and
 - (iv) the applicant has net assets of:
 - (A) not less than AUD250,000; or
 - (B) a lesser amount that is adequate; to conduct the business; and

- (v) the applicant has demonstrated that there is need for the applicant to be temporarily resident in Australia to conduct the business.

Service sellers

- (8) The applicant meets the requirements of this subclause if:
- (a) the applicant:
- (i) is a representative of a supplier of services who is located outside Australia; and
 - (ii) proposes to represent the supplier in Australia; and
- (b) the representation involves negotiating, or entering into agreements, for the sale of services but does not involve the actual supply, or direct sale, of the services; and
- (c) the Minister is satisfied that the proposal has not been made only for the purposes of securing the entry of the applicant to Australia.

Persons accorded certain privileges and immunities

- (9) The applicant meets the requirements of this subclause if:
- (a) the applicant is a person to whom privileges and immunities will be accorded under the *International Organisations (Privileges and Immunities) Act 1963* or the *Overseas Missions (Privileges and Immunities) Act 1995*; and
- (b) the Foreign Minister has recommended in writing to the Minister that the applicant should be granted the visa.

IASS agreements

- (10) The applicant meets the requirements of this subclause if:
- (a) the activity specified in the application is the subject of an IASS agreement; and
- (b) the activity is the subject of an approved business nomination by a business that is a party to the IASS agreement; and
- (c) the applicant is nominated by the business mentioned in paragraph (b); and

- (d) the requirements of the IASS agreement have been met in relation to the application.

(11) In subclauses (4) and (5):

exempt applicant means an applicant who is in a class of applicants specified by the Minister in an instrument in writing for this subclause.

457.223A The Minister may waive any of the requirements of:

- (a) paragraph 457.223 (4) (j) or (k); or
(b) paragraph 457.223 (5) (k) or (l);

if he or she considers it reasonably appropriate to do so.

457.224 The applicant satisfies:

- (a) public interest criteria 4001, 4002, 4003, 4004, 4010, 4013 and 4014; and
(b) if:
(i) the applicant is the holder of a visa granted on the basis that the applicant met the requirements of subclause 457.223 (7); and
(ii) the applicant seeks a visa on the basis that the applicant meets the requirements of subclause 457.223 (7A);
public interest criterion 4005; and
(c) if the applicant does not seek a visa on the basis that the applicant meets the requirements of subclause 457.223 (9) — public interest criterion 4006A; and
(d) if paragraph (c) applies to the applicant and the applicant had turned 18 at the time of application — public interest criterion 4019.

457.225 If:

- (a) the applicant is outside Australia; and
(b) the applicant has previously been in Australia;
the applicant satisfies special return criteria 5001 and 5002.

457.226 (1) If the applicant:

- (a) is an AusAID student or an AusAID recipient; and

- (b) does not meet the requirements of subclause 457.223 (3) or (10);

the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
(b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

457.227 (1) In relation to the family unit of an applicant who seeks to meet the requirements of subclause 457.223 (7A), each member of the family unit who is an applicant for a Subclass 457 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4010, 4013 and 4014; and
(aa) if the person had turned 18 at the time of application, satisfies public interest criterion 4019; and
(b) if the person has previously been in Australia, satisfies special return criteria 5001 and 5002.

(2) In relation to the family unit of an applicant who seeks to meet the requirements of subclause 457.223 (7A), each member of the family unit who is not an applicant for a Subclass 457 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
(b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

457.228 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
(i) was issued to the applicant by an official source; and

- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

457.3 Secondary criteria

457.31 [No criteria to be satisfied at time of application.]

457.32 Criteria to be satisfied at time of decision

457.321 The applicant is a member of the family unit of a person (the *primary applicant*) who, having satisfied the primary criteria, is the holder of a Subclass 457 visa.

457.322 If:

- (a) the applicant is outside Australia; and
- (b) the application is made separately from that of the primary applicant;

the primary applicant is, or is expected soon to be, in Australia.

457.323 If the applicant is in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

457.324 The applicant is included in any nomination that is required in respect of the primary applicant in accordance with approved form 1068, 1196 or 1196 (Internet).

457.324A The applicant is a member of the family unit of the applicant who satisfied the criterion in clause 457.223 of being sponsored by an approved sponsor within the meaning of section 140D of the Act, and is included in that sponsorship.

457.324B Subject to clause 457.324C, the Minister is satisfied that:

- (a) nothing adverse is known to Immigration about the business background of:
 - (i) the approved sponsor mentioned in clause 457.324A; or

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- (ii) any officer or other senior or responsible person of any of the entities that constitute the approved sponsor mentioned in clause 457.324A; or
 - (iii) any individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the approved sponsor mentioned in clause 457.324A; and
 - (b) the approved sponsor mentioned in clause 457.324A is not under investigation or subject to legal action in relation to:
 - (i) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (ii) an alleged breach of a law of the Commonwealth or a State or Territory; and
 - (c) no officer or other senior or responsible person of any of the entities that constitute the approved sponsor mentioned in clause 457.324A is under investigation or subject to legal action in relation to:
 - (i) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (ii) an alleged breach of a law of the Commonwealth or a State or Territory; and
 - (d) no individual who is a member of a partnership or unincorporated association that is 1 of the entities that constitute the approved sponsor mentioned in clause 457.324A is under investigation or subject to legal action in relation to:
 - (i) an alleged breach of an undertaking given for the purposes of Division 3A of Part 2 of the Act; or
 - (ii) an alleged breach of a law of the Commonwealth or a State or Territory.
- 457.324C The Minister may waive any of the requirements of clause 457.324B if he or she considers it reasonably appropriate to do so.
- 457.325 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4010, 4013 and 4014; and

- (b) satisfies public interest criterion 4019, if:
 - (i) the applicant had turned 18 at the time of application; and
 - (ii) the applicant did not make an application with a primary applicant who seeks to meet the requirements of subclause 457.223 (9); and
 - (c) if the applicant is a member of the family unit of an applicant who seeks to meet the requirements of subclause 457.223 (7A) — satisfies public interest criterion 4005; and
 - (d) unless the applicant is a member of the family unit of a primary applicant who meets the requirements of subclause 457.223 (9) — satisfies public interest criterion 4006A.
- 457.326 If:
- (a) the applicant is outside Australia; and
 - (b) the applicant has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.
- 457.327 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 457.328 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 457.329 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

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- (b) it would be unreasonable to require the applicant to be the holder of a passport.

457.4 Circumstances applicable to grant

- 457.411 The applicant may be in or outside Australia at the time of grant, but not in immigration clearance.

457.5 When visa is in effect

- 457.511 A temporary visa permitting the holder:
- (a) in the case of a holder who is in Australia at the time of grant — to remain in Australia for a period of more than 3 months, but not more than 4 years, from the date of grant; and
 - (b) in the case of a holder who is outside Australia at the time of grant — to remain in Australia for a period of more than 3 months, but not more than 4 years from the date of entry that is specified by the Minister; and
 - (c) in the case of a holder of a visa granted on the basis that the holder met the requirements of subclause 457.223 (7A) — to remain in Australia for a period of 2 years from the date of the grant; and
 - (d) in the case of a holder:
 - (i) to whom paragraph (a), (b) or (c) would apply; and
 - (ii) whose visa was granted on the basis that he or she was a member of the family unit of the holder of a visa in the circumstances described in subregulation 1.12 (10);to remain in Australia until the earlier of:
 - (iii) the end of the period in paragraph (a), (b) or (c) that would have applied to the holder; and
 - (iv) the end of the day before the holder's 21st birthday; and
 - (f) in any case — to travel to, and enter, Australia on multiple occasions before the end of the relevant period.

457.6 Conditions

- 457.611 (1) If the applicant satisfies the primary criteria, condition 8107 applies unless the applicant meets the requirements of subclause 457.223 (7A).
- (2) Any one or more of conditions 8106, 8301, 8303, 8403, 8502, 8516, 8522, 8525 and 8526 may be imposed.

457.7 Way of giving evidence

- 457.711 No evidence need be given.
- 457.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 459 Sponsored Business Visitor (Short Stay)

459.1 Interpretation

Note *AusAID Minister*, *AusAID recipient*, *AusAID student*, *Australian permanent resident*, *dependent child* and *settled* are defined in regulation 1.03, *sponsor* is defined in regulation 1.20, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

459.2 Primary criteria

Note 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.

459.21 Criteria to be satisfied at time of application

- 459.211 The applicant:
- (a) seeks to enter Australia temporarily for business purposes; and
 - (b) has personal attributes and business background that are relevant to, and consistent with, the nature of the applicant's proposed business in Australia; and

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- (c) demonstrates that there is need for the applicant to be in Australia for business purposes; and
 - (d) proposes in the application to remain in Australia for not more than 3 months; and
 - (e) has adequate funds for personal support during the period of the proposed visit to Australia.
- 459.212 The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.
- 459.213 The applicant does not intend to engage in:
- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or
 - (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.
- 459.214 The applicant is sponsored by:
- (a) a settled Australian citizen, or a settled Australian permanent resident, who:
 - (i) is a member of the Commonwealth Parliament or a State Parliament; or
 - (ii) is a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory; or
 - (iii) holds the office of mayor; or
 - (b) a Commonwealth government agency or instrumentality or a State or Territory government agency or instrumentality; or
 - (c) an organisation specified in a Gazette Notice for this paragraph.

459.22 Criteria to be satisfied at time of decision

- 459.221 The applicant continues to satisfy the criteria in clauses 459.211 to 459.214.
- 459.222 The sponsorship referred to in subclause 459.214 has been approved by the Minister and is still in force.
- 459.223 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia temporarily for business purposes is genuine.
- 459.224 A security has been lodged, if asked for by an officer authorised under section 269 of the Act (which deals with security for compliance with the Act).
- 459.225 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 459.226 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013 and 4014.
- 459.227 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 459.228 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 459.229 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

459.3 Secondary criteria

459.31 Criteria to be satisfied at time of application

- 459.311 The applicant is the spouse, de facto partner or a dependent child, of a person who is an applicant for a Subclass 459 visa who seeks a visa to remain in Australia temporarily for a period of 3 months or less.
- 459.312 The sponsorship referred to in clause 459.214 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.
- 459.313 The applicant does not intend to engage in:
- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or
 - (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution within or outside Australia.

459.32 Criteria to be satisfied at time of decision

- 459.321 The applicant is the spouse, de facto partner or a dependent child, of a person who, having satisfied the primary criteria, is the holder of a Subclass 459 visa.
- 459.322 The sponsorship referred to in clause 459.214 in respect of the person who satisfies the primary criteria:
- (a) includes sponsorship of the applicant; and
 - (b) has been approved by the Minister; and
 - (c) is still in force.
- 459.323 A security has been lodged, if asked for by an officer authorised under section 269 of the Act (which deals with security for compliance with the Act).

- 459.324 The applicant, or the person who satisfies the primary criteria, produces to the Minister evidence of adequate means to support the applicant during the period of stay applied for by the applicant.
- 459.325 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine.
- 459.326 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 459.327 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013 and 4014.
- 459.328 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 459.329 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 459.330 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

459.4 Circumstances applicable to grant

- 459.411 The applicant must be outside Australia at the time of grant.

459.5 When visa is in effect

- 459.511 Temporary visa permitting the holder:
- (a) to travel to and enter Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia for a period, not longer than 3 months after the date of each entry, specified by the Minister for the purpose.

459.6 Conditions

- 459.611 If the applicant satisfies the primary criteria, conditions 8112 and 8205.
- 459.612 If the applicant satisfies the primary criteria, conditions 8106, 8503 and 8531 may be imposed.
- 459.613 If the applicant is the spouse or de facto partner of the person who satisfies the primary criteria for a Subclass 459 visa and the applicant satisfies the secondary criteria, conditions 8101 and 8205.
- 459.613A If the applicant is the spouse or de facto partner of the person who satisfies the primary criteria for a Subclass 459 visa and the applicant satisfies the secondary criteria, conditions 8503 and 8531 may be imposed.
- 459.614 If the applicant is a dependent child of the person who satisfies the primary criteria for a Subclass 459 visa and the applicant satisfies the secondary criteria, condition 8205.
- 459.615 If the applicant is a dependent child of the person who satisfies the primary criteria for a Subclass 459 visa and the applicant satisfies the secondary criteria, conditions 8101, 8503 and 8531 may be imposed.

459.7 Way of giving evidence

- 459.711 No evidence need be given.
- 459.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 461 New Zealand Citizen Family Relationship (Temporary)

461.1 Interpretation

Note There are no interpretation provisions specific to this Part.

461.2 Primary criteria

Note All applicants must meet the primary criteria.

461.21 Criteria to be satisfied at time of application

461.211 The applicant is not a New Zealand citizen.

461.212 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is a member of the family unit of:

(a) a person who is in Australia as the holder of a Subclass 444 (Special Category) visa; or

(b) a person who:

(i) is outside Australia; and

(ii) will be accompanying the applicant to Australia; and

(iii) will, on entry, be the holder of a special category visa.

(3) An applicant meets the requirements of this subclause if the applicant:

(a) either:

(i) is in Australia as the holder of a Subclass 461 (New Zealand Citizen Family Relationship (Temporary)) visa; or

(ii) is not the holder of a substantive visa and the last substantive visa held by the applicant was a Subclass 461 visa; and

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- (b) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and
 - (c) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).
- (4) An applicant meets the requirements of this subclause if the applicant:
- (a) is outside Australia; and
 - (b) either:
 - (i) the applicant was lawfully present in Australia as the holder of a Subclass 461 visa for a period of, or periods that total, not less than 2 years in the period of 5 years immediately before the application for the visa; or
 - (ii) the Minister is satisfied that the applicant:
 - (A) has substantial business, cultural, employment or personal ties with Australia which are of benefit to Australia; and
 - (B) has not been absent from Australia for a continuous period of 5 years or more immediately before the application for the visa, unless there are compelling reasons for the absence; and
 - (c) on last departure from Australia was a holder of a Subclass 461 visa; and
 - (d) is no longer a member of the family unit of the person in relation to whom the applicant was granted a Subclass 461 visa; and
 - (e) has not become a member of the family unit of another person (whether or not the applicant is still a member of the family unit of that other person).
- 461.213 If the application is made in Australia, the applicant:
- (a) is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or

- (b) does not hold a substantive visa and:
 - (i) immediately before ceasing to hold such a visa was the holder of a substantive temporary visa other than a Subclass 426 visa; and
 - (ii) satisfies Schedule 3 criteria 3002, 3003, 3004 and 3005.

461.22 Criteria to be satisfied at time of decision

- 461.221 The applicant continues to satisfy the criterion in subclause 461.212 (1).
- 461.222 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 461.223 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 461.224 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 461.225 If the application is made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 461.226 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 461.227 The Minister is satisfied that:
 - (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

461.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

461.4 Circumstances applicable to grant

461.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

461.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

461.5 When visa is in effect

461.511 Temporary visa permitting the holder to travel to, and enter and remain in, Australia for a period of 5 years from the date of grant.

461.6 Conditions

461.611 Either or both of conditions 8303 and 8501 may be imposed.

461.7 Way of giving evidence

461.711 No evidence need be given.

461.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 462 Work and Holiday

462.1 Interpretation

Note There are no interpretation provisions specific to this Part. *AusAID recipient* and *AusAID student* are defined in regulation 1.03.

462.2 Primary criteria

Note All applicants must satisfy the primary criteria.

462.21 Criteria to be satisfied at time of application

462.211 If the applicant:

- (a) does not hold a Subclass 462 (Work and Holiday) visa; and
- (b) is not a member of a class of persons specified by the Minister, by an instrument in writing, for subparagraph 1224A (3) (b) (iii) of Schedule 1;

the applicant satisfies the criteria in clauses 462.212, 462.213, 462.215, 462.216 and 462.217.

462.211A If:

- (a) the applicant holds a Subclass 462 (Work and Holiday) visa; or
- (b) the applicant:
 - (i) does not hold a Subclass 462 (Work and Holiday) visa; and
 - (ii) is a member of a class of persons specified by the Minister, by an instrument in writing, for subparagraph 1224A (3) (b) (iii) of Schedule 1;

the applicant satisfies the criteria in clause 462.212 and clauses 462.214 to 462.217.

462.212 The applicant is at least 18 but has not turned 31.

462.213 (1) The applicant has provided with the application a letter:

- (a) from the government of a foreign country with which the Australian Government has an arrangement mentioned in clause 462.216; and
- (b) that includes a statement to the effect that the government of the foreign country has agreed to the applicant's stay in Australia under the arrangement.

(2) The applicant holds a valid passport issued by the foreign country mentioned in subclause (1).

462.214 The applicant holds a valid passport issued by a foreign country specified in an instrument in writing made under paragraph 1224A (3) (a) of Schedule 1.

462.215 The Minister is satisfied that the applicant has at least functional English.

Note **functional English** is defined in subsection 5 (2) of the Act.

462.216 The Minister is satisfied that the application meets the requirements of an arrangement between the Australian Government and the government of a foreign country specified in an instrument in writing made under paragraph 1224A (3) (a) of Schedule 1.

462.217 The Minister is satisfied that the applicant:

- (a) seeks to enter or remain in Australia as a genuine visitor whose principal purpose is to spend a holiday in Australia; and
- (b) has sufficient money for:
 - (i) the fare to the applicant's intended overseas destination on leaving Australia; and
 - (ii) personal support for the purposes of a working holiday.

462.22 Criteria to be satisfied at time of decision

462.221 The applicant:

- (a) continues to satisfy the criteria in clauses 462.215, 462.216 and 462.217; and
- (aa) continues to hold the passport mentioned in paragraph 1224A (3) (a) of Schedule 1, or a valid replacement passport issued by the country concerned; and
- (b) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013, 4014 and 4019; and
- (c) is the holder of an educational qualification specified in an instrument in writing for this paragraph, in relation to the foreign country that issued the passport mentioned in paragraph (aa); and
- (e) is not an AusAID student or an AusAID recipient.

462.222 If the applicant:

- (a) was outside Australia at the time of application; and
- (b) has previously been in Australia;

the applicant satisfies special return criteria 5001 and 5002.

462.223 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

462.3 Secondary criteria

Note All applicants must meet the primary criteria.

462.4 Circumstances applicable to grant

462.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

462.412 If the applicant is in Australia at the time of application, the applicant must be in Australia, but not in immigration clearance, at the time of grant.

462.5 When visa is in effect

462.511 If the applicant is outside Australia at the time of grant — temporary visa permitting the holder:

- (a) to travel to and enter Australia within 12 months after the date of the grant of the visa; and
- (b) to travel to, enter and remain in Australia until 12 months after the date of first entry to Australia.

462.512 If the applicant is in Australia at the time of grant — temporary visa permitting the holder to travel to, enter and remain in Australia until 12 months after the date of grant.

462.6 Conditions

462.611 Conditions 8547 and 8548.

462.612 Any 1 or more of conditions 8303, 8501, 8503, 8516 and 8540 may be imposed, unless an application is decided by the use of a computer program in accordance with an arrangement under section 495A of the Act.

462.7 Way of giving evidence

462.711 No evidence need be given.

462.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 470 Professional Development

470.1 Interpretation

470.111 In this Part:

employed, professional development agreement and *overseas employer* have the same meaning as in regulation 1.20M.

Note Approved professional development sponsor is defined in regulation 1.03.

470.112 In this Part:

applicable agreement, in relation to an applicant, means the professional development agreement that the applicant's approved professional development sponsor has with the applicant's overseas employer.

470.2 Primary criteria

Note All applicants must satisfy the primary criteria.

470.21 [No criteria to be satisfied at time of application]

470.22 Criteria to be satisfied at time of decision

470.221 Either:

- (a) the applicant has turned 18; or
- (b) the applicant has not turned 18, and the Minister is satisfied that exceptional circumstances exist for the grant of the visa.

470.222 The applicant:

- (a) nominated an approved professional development sponsor as the applicant's sponsor in the application for the visa; and
- (b) is sponsored by that approved professional development sponsor.

- 470.223 The sponsor is satisfied that the applicant:
- (a) will undertake the professional development program mentioned in the visa application; and
 - (b) has managerial or other professional skills and work experience that are relevant to that program.
- 470.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 470.225 The applicant continues to be sponsored by an approved professional development sponsor who is not the subject of a bar mentioned in paragraph 140L (c) or (d) of the Act in relation to the professional development sponsorship approval to which the application relates.
- 470.226 The applicant is employed, within the meaning given by regulation 1.20M:
- (a) by an overseas employer; and
 - (b) in a managerial or other professional position.
- 470.227 The Minister is satisfied that there is no information indicating that any of the parties to the applicable agreement are unable to meet their financial commitments under the agreement.
- 470.228 The applicant's approved professional development sponsor has made the undertakings mentioned in regulation 1.20P in relation to the applicant.
- 470.229 The Minister is satisfied that the applicant is a genuine applicant for entry to Australia to undertake the professional development program conducted by or for the approved professional development sponsor, having regard to:
- (a) the applicant's previous compliance with the immigration laws of Australia; and
 - (b) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (c) any other relevant matter.
- 470.230 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

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- 470.231 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 470.232 The applicant gives to the Minister evidence that the approved professional development sponsor is satisfied in relation to the applicant's English language proficiency for the purposes of undertaking the professional development program mentioned in the visa application.
- 470.233 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.
- 470.234 The Minister is satisfied that there is no evidence to suggest that the applicant is unable to meet the costs (if any) specified in the applicable agreement as costs that the applicant will meet.

470.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

470.4 Circumstances applicable to grant

- 470.411 The applicant must be outside Australia at the time of grant.

470.5 When visa is in effect

- 470.511 Temporary visa permitting the holder:
- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia until a date specified by the Minister for the purpose.

470.6 Conditions

470.611 Conditions 8102, 8205, 8501, 8503, 8514, 8516, 8531 and 8536.

470.7 Way of giving evidence

470.711 No evidence need be given.

470.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 475 Skilled — Regional Sponsored

475.1 Interpretation

475.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

designated area means an area specified by the Minister in an instrument in writing under item 6701 of Schedule 6 as a designated area.

diploma has the same meaning as in subregulation 2.26A (6).

employed has the meaning given by subregulation 2.26A (7).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 3 Regulation 1.03 provides that *concessional competent English* has the meaning set out in regulation 1.15E.

Note 4 For *registered course*, see regulation 1.03.

Note 5 For *relevant assessing authority*, see regulation 1.03.

Note 6 For *skilled occupation*, see regulation 1.03.

475.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

475.21 Criteria to be satisfied at time of application

475.211 Either:

- (a) the applicant has been employed in a skilled occupation for at least 12 months in the period of 24 months ending immediately before the day on which the application was made; or
- (b) the following requirements are met:
 - (i) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made;
 - (ii) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

475.212 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.

(2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.

475.213 (1) The requirements of subclause (2) or (3) are met.

(2) The applicant has indicated that the applicant is nominated by a State or Territory government agency.

(3) The applicant has indicated that the applicant, and all persons included in the application, are sponsored by a person who:

- (a) has turned 18; and
- (b) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
- (c) is usually resident in a designated area of Australia; and
- (d) is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is also an applicant for a Subclass 475 visa) as:
 - (i) a parent; or

- (ii) a child or a step-child; or
- (iii) a brother or sister, an adoptive brother or sister, or a step-brother or step-sister; or
- (iv) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle; or
- (v) a nephew or niece, an adoptive nephew or niece, or a step-nephew or step-niece; or
- (vi) a grandparent or first cousin.

475.214 The applicant has concessional competent English.

475.22 Criteria to be satisfied at time of decision

475.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).

475.222 Either:

- (a) the Minister has accepted the nomination mentioned in subclause 475.213 (2); or
- (b) the sponsorship mentioned in subclause 475.213 (3) was made:
 - (i) on Form 1277 (Internet); or
 - (ii) on Form 1277:
 - (A) by posting the form (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this sub-subparagraph; or

(B) by having the form delivered by a courier service to the address specified by the Minister in an instrument in writing for this sub-subparagraph;

and the Minister has accepted the sponsorship.

- 475.223 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1228 of Schedule 1; or
 - (b) to obtain the skills assessment mentioned in subclause 475.212 (1); or
 - (c) to satisfy Subdivision 475.21; or
 - (d) to satisfy clause 475.221;
- was false or misleading in a material particular.
- 475.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 475.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 475.226 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 475 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- 475.227 Each member of the family unit of the applicant, who is not an applicant for a Subclass 475 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

475.228 If a person (the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied for the additional applicant.

475.229 Grant of the visa would not result in either:

- (a) the number of Subclass 475 visas granted in a financial year exceeding the maximum number of Subclass 475 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 475) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

475.230 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

475.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

475.31 Criteria to be satisfied at time of application

475.311 The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 475.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VF) visa on the basis of satisfying the primary criteria for the grant of a Subclass 475 visa.

475.32 Criteria to be satisfied at time of decision

475.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 475 visa.

475.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

475.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

475.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

475.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

475.4 Circumstances applicable to grant

475.411 (1) If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special

Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, may be in or outside Australia when the visa is granted.

(2) If the applicant who satisfied the primary criteria for the grant of the visa is not the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, must be outside Australia when the visa is granted.

475.412 In any other case, an applicant may be in or outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

475.5 When visa is in effect

475.511 (1) If the applicant satisfied the primary criteria for the grant of the visa, and is in Australia at the time of grant — a temporary visa permitting the holder to travel to, enter and remain in Australia until 3 years after the date of grant.

(2) If the applicant satisfied the primary criteria for the grant of the visa, and is outside Australia at the time of grant — a temporary visa permitting the holder to travel to, enter and remain in Australia until 3 years after the date of first entry.

(3) If the applicant satisfied the secondary criteria for the grant of the visa — a temporary visa permitting the holder to travel to, enter and remain in Australia until the date specified for the applicant who satisfied the primary criteria for the grant of the visa.

475.6 Conditions

475.611 If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and
- (c) condition 8515 may be imposed.

475.612 If the applicant was nominated by a State or Territory government as described in subclause 475.213 (2), condition 8539 must be imposed.

475.613 If the applicant was sponsored by a person as described in subclause 475.213 (3), condition 8549 must be imposed.

475.7 Way of giving evidence

475.711 No evidence need be given.

475.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 476 Skilled — Recognised Graduate

476.1 Interpretation

476.111 In this Part:

completed, in relation to a degree, means having met the academic requirements for the award of the degree.

degree has the same meaning as in subregulation 2.26A (6).

Note Regulation 1.03 provides that *competent English* has the meaning set out in regulation 1.15C.

476.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

476.21 Criteria to be satisfied at time of application

476.211 The applicant:

- (a) has not previously held a Subclass 476 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and
- (b) has not previously held a Subclass 485 (Skilled — Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

476.212 The applicant has completed a course:

- (a) in the period of 24 months ending immediately before the day on which the application is made; and
- (b) at an institution specified by the Minister in an instrument in writing for this paragraph;

for the award of a degree or higher qualification in a discipline specified in an instrument in writing for this clause.

476.213 The applicant has competent English.

476.22 Criteria to be satisfied at time of decision

476.221 No evidence has become available since the time of application that the information given or used:

- (a) to meet the requirements of item 1228 of Schedule 1; or
 - (b) to satisfy Subdivision 476.21;
- was false or misleading in a material particular.

476.222 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

476.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

476.224 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 476 visa, is a person who:

- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.

476.225 If a person (the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) is less than 18; and

- (c) made a combined application with the applicant; public interest criteria 4015 and 4016 are satisfied for the additional applicant.

476.226 Grant of the visa would not result in either:

- (a) the number of Subclass 476 visas granted in a financial year exceeding the maximum number of Subclass 476 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 476) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

476.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

476.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

476.31 Criteria to be satisfied at time of application

476.311 The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 476.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VF) visa on the basis of satisfying the primary criteria for the grant of a Subclass 476 visa.

476.32 Criteria to be satisfied at time of decision

- 476.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 476 visa.
- 476.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 476.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 476.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 476.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

476.4 Circumstances applicable to grant

- 476.411 (1) If the applicant who satisfied the primary criteria for the grant of the visa is also the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, may be in or outside Australia when the visa is granted.
- (2) If the applicant who satisfied the primary criteria for the grant of the visa is not the holder of a Subclass 444 (Special Category) visa, the applicant and each applicant included in the application who made a combined application with the applicant, must be outside Australia when the visa is granted.

476.412 In any other case, an applicant may be in or outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

476.5 When visa is in effect

476.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

476.6 Conditions

476.611 If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8502 may be imposed; and
- (c) condition 8515 may be imposed.

476.7 Way of giving evidence

476.711 No evidence need be given.

476.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 485 Skilled — Graduate

485.1 Interpretation

485.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

diploma has the same meaning as in subregulation 2.26A (6).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 Regulation 1.03 provides that *Australian study requirement* has the meaning set out in regulation 1.15F.

Note 2 Regulation 1.03 provides that *competent English* has the meaning set out in regulation 1.15C.

Note 3 For **registered course**, see regulation 1.03.

Note 4 For **relevant assessing authority**, see regulation 1.03.

Note 5 For **skilled occupation**, see regulation 1.03.

Note 6 Regulation 1.03 provides that **vocational English** has the meaning set out in regulation 1.15B.

485.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

485.21 Criteria to be satisfied at time of application

485.211 The requirements of subitem 1229 (4) of Schedule 1 are met.

485.212 The applicant:

- (a) has not previously held a Subclass 476 (Skilled — Recognised Graduate) visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa; and
- (b) has not previously held a Subclass 485 visa that was granted on the basis that the applicant satisfied the primary criteria for the grant of the visa.

485.213 The following requirements are met:

- (a) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made;
- (b) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

485.214 The Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.

485.215 Either:

- (a) the applicant's nominated skilled occupation is in Major Group IV in the Australian Standard Classification of Occupations, and the applicant has vocational English;
- or

-
- (b) the applicant has competent English.
- 485.216 The application is accompanied by evidence that:
- (a) the applicant; and
 - (b) each person included in the application who is at least 16;
- has applied for an Australian Federal Police check during the 12 months immediately before the day when the application is made.
- 485.217 The application is accompanied by evidence that the applicant and each person included in the application has made arrangements to undergo a medical examination for the purpose of the application.
- 485.22 Criteria to be satisfied at time of decision**
- 485.221 (1) The skills of the applicant for the applicant's nominated skilled occupation have been assessed by the relevant assessing authority as suitable for that occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.
- 485.223 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1229 of Schedule 1; or
 - (b) to satisfy Subdivision 485.21; or
 - (c) to obtain the skills assessment mentioned in subclause 485.221 (1);
- was false or misleading in a material particular.
- 485.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 485.225 The applicant satisfies special return criteria 5001, 5002 and 5010.

- 485.226 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 485 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) if the person has previously been in Australia — satisfies special return criteria 5001, 5002 and 5010.
- 485.227 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant; public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 485.228 Grant of the visa would not result in either:
- (a) the number of Subclass 485 visas granted in a financial year exceeding the maximum number of Subclass 485 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 485) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.
- 485.229 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

485.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

485.31 Criteria to be satisfied at time of application

485.311 The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 485.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria for the grant of a Subclass 485 visa.

485.32 Criteria to be satisfied at time of decision

485.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 485 visa.

485.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

485.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

485.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

485.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

485.4 Circumstances applicable to grant

485.411 (1) The applicant who satisfies the primary criteria for the grant of the visa, and each applicant who made a combined application with the applicant, must be in Australia when the visa is granted.

(2) In any other case, the applicant may be in or outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

485.5 When visa is in effect

485.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

485.6 Conditions

485.611 Condition 8501 may be imposed.

485.612 If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

485.7 Way of giving evidence

485.711 No evidence need be given.

485.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 487 Skilled — Regional Sponsored

487.1 Interpretation

487.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

designated area means an area specified by the Minister in an instrument in writing under item 6701 of Schedule 6 as a designated area.

diploma has the same meaning as in subregulation 2.26A (6).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 Regulation 1.03 provides that **Australian study requirement** has the meaning set out in regulation 1.15F.

Note 2 Regulation 1.03 provides that **competent English** has the meaning set out in regulation 1.15C.

Note 3 Regulation 1.03 provides that **concessional competent English** has the meaning set out in regulation 1.15E.

Note 3 For **concessional competent English**, see regulation 1.15E.

Note 4 For **relevant assessing authority**, see regulation 1.03.

Note 5 For **skilled occupation**, see regulation 1.03.

Note 6 Regulation 1.03 provides that **vocational English** has the meaning set out in regulation 1.15B.

487.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

487.21 Criteria to be satisfied at time of application

487.211 For an applicant who met the requirements of subitem 1229 (8) of Schedule 1, no requirements of this Subdivision need be met.

487.212 (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) The applicant met the requirements of subitem 1229 (4) of Schedule 1, and:

(a) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made; and

- (b) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.
 - (3) The applicant met the requirements of subclause 1229 (5) of Schedule 1, and:
 - (a) if the applicant holds a Subclass 476 (Skilled — Recognised Graduate) visa, the qualification used to obtain that visa is closely related to the applicant's nominated skilled occupation; or
 - (b) if the applicant holds a Subclass 485 (Skilled — Graduate) visa, each degree, diploma or trade qualification used to satisfy the Australian study requirement to obtain that visa applicant is closely related to the applicant's nominated skilled occupation.
 - (4) The applicant met the requirements of subitem 1229 (6) of Schedule 1, and:
 - (a) the applicant must have completed the apprenticeship for which the Subclass 471 (Trade Skills Training) visa was granted; and
 - (b) the apprenticeship is closely related to the applicant's nominated skilled occupation.
 - (5) The applicant met the requirements of subitem 1229 (7) of Schedule 1, and:
 - (a) if the applicant holds a Subclass 417 (Working Holiday) visa, the applicant must have held that visa for at least 6 months; or
 - (b) if the applicant holds a Subclass 442 (Occupational Trainee) visa, the applicant must have completed the traineeship for which the visa was granted.
- 487.213 (1) The requirements of subclause (2) or (3) are met.
- (2) The applicant has indicated that the applicant is nominated by a State or Territory government agency.
 - (3) The applicant has indicated that the applicant, and all persons included in the application, are sponsored by a person who:
 - (a) has turned 18; and

-
- (b) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (c) is usually resident in a designated area of Australia; and
 - (d) is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is also an applicant for a Subclass 487 visa), as:
 - (i) a parent; or
 - (ii) a child or a step-child; or
 - (iii) a brother or sister, an adoptive brother or sister, or a step-brother or step-sister; or
 - (iv) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle; or
 - (v) a nephew or niece, an adoptive nephew or niece, or a step-nephew or step-niece; or
 - (vi) a grandparent or first cousin.
- 487.214 The Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
- 487.215 Either:
- (a) the applicant's nominated skilled occupation is in Major Group IV in the Australian Standard Classification of Occupations, and the applicant has vocational English; or
 - (b) the applicant:
 - (i) is nominated by a State or Territory specified by the Minister in an instrument in writing for this subparagraph as a State or Territory in which arrangements are established for suitable English-language training; and
 - (ii) has paid the required fee or charge for that training; and
 - (iii) has concessional competent English; or
 - (c) the applicant:
 - (i) is sponsored by a person who resides in a State or Territory specified by the Minister in an instrument in writing for this subparagraph as a State or Territory in which arrangements are

established for suitable English-language training;
and

- (ii) has paid the required fee or charge for that training; and
- (iii) has concessional competent English; or
- (d) the applicant has competent English; or
- (e) the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument in writing for this paragraph.

487.216 The application is accompanied by evidence that:

- (a) the applicant; and
- (b) each person included in the application who is at least 16;

has applied for an Australian Federal Police check during the 12 months immediately before the day when the application is made.

487.217 The application is accompanied by evidence that the applicant and each person included in the application has made arrangements to undergo a medical examination for the purpose of the application.

487.22 Criteria to be satisfied at time of decision

487.221 If the requirements of subitem 1229 (8) of Schedule 1 have been met, clauses 487.226 to 487.234 only must be satisfied.

487.222 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).

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- 487.223 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.
- 487.224 If the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument in writing for paragraph 487.215 (e):
- (a) the applicant's nominated skilled occupation is in Major Group IV in the Australian Standard Classification of Occupations, and the applicant has vocational English; or
 - (b) the applicant:
 - (i) is nominated by a State or Territory specified by the Minister in an instrument in writing for this subparagraph as a State or Territory in which arrangements are established for suitable English-language training; and
 - (ii) has paid the required fee or charge for that training; and
 - (iii) has concessional competent English; or
 - (c) the applicant:
 - (i) is sponsored by a person who resides in a State or Territory specified by the Minister in an instrument in writing for this subparagraph as a State or Territory in which arrangements are established for suitable English-language training; and
 - (ii) has paid the required fee or charge for that training; and
 - (iii) has concessional competent English; or
 - (d) the applicant has competent English.

- 487.225 Either of the following requirements is met:
- (a) the Minister has accepted the nomination mentioned in subclause 487.213 (2); or
 - (b) the sponsorship mentioned in subclause 487.213 (3) was made:
 - (i) on Form 1277 (Internet), and the Minister has accepted the sponsorship; or
 - (ii) on Form 1277:
 - (A) by posting the form (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this sub-subparagraph; or
 - (B) by having the form delivered by a courier service to the address specified by the Minister in an instrument in writing for this sub-subparagraph;
- and the Minister has accepted the sponsorship.
- 487.226 The applicant, and each person included in the application, who made the application on the basis of being the holder of:
- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
- has substantially complied with the conditions to which that visa is or was subject.
- 487.227 No evidence has become available since the time of application that the information given or used:
- (a) to satisfy any part of the assessment of eligibility of the applicant for:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or

-
- (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa; or
 - (b) to meet the requirements of item 1229 of Schedule 1; or
 - (c) to satisfy Subdivision 487.21; or
 - (d) to satisfy clause 487.222; or
 - (e) to obtain the skills assessment mentioned in subclause 487.223 (1);
- was false or misleading in a material particular.
- 487.228 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and
 - (b) if the applicant was the holder, at the time of application, of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa; andsatisfies public interest criterion 4007; and
 - (c) if paragraph (b) does not apply — satisfies public interest criterion 4005; and
 - (d) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 487.229 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 487.230 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 487 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and

- (e) either:
 - (i) if the person was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (C) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (D) a Subclass 487 (Skilled — Regional Sponsored) visa;satisfies public interest criterion 4007;
 - (ii) in any other case — satisfies public interest criterion 4005; and
- (f) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (g) satisfies special return criteria 5001, 5002 and 5010.

487.231 Each member of the family unit of the applicant who is not an applicant for a Subclass 487 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) either:
 - (i) if the person was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (C) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (D) a Subclass 487 (Skilled — Regional Sponsored) visa;satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or

- (ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

- 487.232 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 487.233 Grant of the visa would not result in either:
- (a) the number of Subclass 487 visas granted in a financial year exceeding the maximum number of Subclass 487 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 487) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.
- 487.234 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

487.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

487.31 Criteria to be satisfied at time of application

487.311 The applicant:

- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 487.21, and made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled (Provisional) (Class VC) visa on the basis of satisfying the primary criteria for the grant of a Subclass 487 visa.

487.32 Criteria to be satisfied at time of decision

487.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 487 visa.

487.322 If the applicant made the application on the basis of being the holder of:

- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
- the applicant has substantially complied with the conditions to which that visa is or was subject.

487.323 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

487.324 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4010; and
- (b) if the applicant was the holder, at the time of application, of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or

-
- (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa; and
satisfies public interest criterion 4007; and
 - (c) if paragraph (b) does not apply — satisfies public interest criterion 4005; and
 - (d) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 487.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 487.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

487.4 Circumstances applicable to grant

487.411 (1) The applicant who satisfies the primary criteria for the grant of the visa, and each applicant who made a combined application with the applicant, must be in Australia when the visa is granted.

(2) In any other case, the applicant may be in or outside Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

487.5 When visa is in effect

- 487.511 (1) If:
- (a) the applicant who satisfied the primary criteria is in Australia at the time of application; and

- (b) at the time of application, the applicant who satisfied the primary criteria held any of the following visas:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa;

temporary visa permitting the holder to travel to, enter and remain in Australia until 48 months after the date of grant of the visa mentioned in paragraph (b).

(2) In any other case:

- (a) if the applicant satisfied the primary criteria for the grant of the visa — temporary visa permitting the holder to travel to, enter and remain in Australia until 3 years after the date of grant; or
- (b) if the applicant satisfied the secondary criteria for the grant of the visa — temporary visa permitting the holder to travel to, enter and remain in Australia until the date specified for the applicant who satisfies the primary criteria for the grant of the visa.

487.6 Conditions

487.611 If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (c) condition 8515 may be imposed.

487.612 If the applicant who satisfied the primary criteria for the grant of the visa was nominated by a State or Territory government as described in subclause 487.213 (2), condition 8539 must be imposed.

487.613 If the applicant who satisfied the primary criteria for the grant of the visa was sponsored by a person as described in subclause 487.213 (3), condition 8549 must be imposed.

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- 487.614 (1) If:
- (a) the applicant met the requirements of subitem 1229 (8) of Schedule 1; and
 - (b) condition 8539 was imposed on the visa mentioned in that subitem;
condition 8539 must be imposed.
- (2) If:
- (a) the applicant met the requirements of subitem 1229 (8) of Schedule 1; and
 - (b) condition 8549 was imposed on the visa mentioned in that subitem;
condition 8549 must be imposed.

487.7 Way of giving evidence

- 487.711 No evidence need be given.
- 487.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 488 Superyacht Crew

488.1 Interpretation

Note **Member of the crew** and **superyacht** are defined in regulation 1.03. Regulation 1.15G is also relevant for the purposes of the definition of **superyacht**. There are no interpretation provisions specific to this Part.

488.2 Primary criteria

Note All applicants must satisfy the primary criteria.

488.21 Criteria to be satisfied at time of application

- 488.211 The applicant has turned 18.
- 488.212 The applicant is a member of the crew of a superyacht.

488.213 The applicant does not intend to engage in activities that will have adverse consequences for employment or training opportunities, or conditions of employment, for Australian citizens or Australian permanent residents.

488.22 Criteria to be satisfied at time of decision

488.221 The applicant continues to satisfy the criteria in clauses 488.212 and 488.213.

488.222 The applicant is sponsored by the captain or owner of the superyacht and each of the following criteria is satisfied:

- (a) the captain or owner sponsoring the applicant has not defaulted on any previous sponsorship entered into under these Regulations;
- (b) the captain or owner sponsoring the applicant has given written undertakings in accordance with approved form 1366;
- (c) the Minister has approved the captain or owner as a sponsor for the applicant.

488.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.

488.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

488.225 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

488.3 Secondary criteria: Nil

Note All applicants must satisfy the primary criteria.

488.4 Circumstances applicable to grant

488.411 The applicant may be in or outside Australia when the visa is granted.

488.5 When visa is in effect

488.511 If the visa was granted to an applicant outside Australia — temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia for a period, or until a date, specified by the Minister for the purpose.

488.512 If the visa was granted to an applicant in Australia — temporary visa permitting the holder:

- (a) to remain in Australia for a period, or until a date, specified by the Minister for the purpose; and
- (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

488.6 Conditions

488.611 Conditions 8107 and 8114.

488.7 Way of giving evidence

488.711 No evidence need be given.

Subclass 495 Skilled — Independent Regional (Provisional)

495.1 Interpretation

495.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and **diploma** have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

vocational English has the meaning given in regulation 1.15B.

Note For **skilled occupation**, see regulation 1.03.

495.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

495.21 Criteria to be satisfied at time of application

495.210A The application must be made before 1 September 2007.

495.210 For an applicant:

- (a) who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or

- (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;

clauses 495.213, 495.214 and 495.219A only must be satisfied.

- 495.211 (1) Subject to subclause (2), the Minister is satisfied that the applicant has been employed in a skilled occupation:
- (a) if 60 points are specified in an instrument in writing for this paragraph as available for the skilled occupation — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day when the application was made; or
 - (b) if 40 or 50 points are specified in an instrument in writing for this paragraph as available for the skilled occupation — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day when the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day when the application is made, completed a degree, diploma or trade qualification

- (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English; or
- (c) the applicant is the holder of:
- (i) a Working Holiday (Temporary) (Class TZ) visa; or
 - (ii) a Subclass 442 (Occupational Trainee) visa.

495.212 In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:

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- (a) held a substantive visa authorising him or her to work during that period and complied with the conditions to which that visa is or was subject; or
- (b) held a Subclass 010 (Bridging A) or Subclass 020 (Bridging B) visa permitting him or her to work during that period and complied with the conditions to which that visa is or was subject.
- 495.213 If:
- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the Minister is satisfied that the applicant has complied with the conditions of that visa.
- 495.214 If the applicant met the requirements of subitem 1218A (4) of Schedule 1 — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 495.215 For an applicant who met the requirements of subitem 1218A (5) of Schedule 1:
- (a) if a declaration was required to be made for paragraph 1218A (5) (i) of Schedule 1 — the Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority; and
- (b) if a declaration was required to be made for subparagraph 1218A (5) (e) (i) of Schedule 1 — the Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (i) a Medical Officer of the Commonwealth;
- (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;

- (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1; and
 - (c) if a declaration was required to be made for subparagraph 1218A (5) (e) (ii) of Schedule 1 — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
 - (d) if a declaration was required to be made for sub-subparagraph 1218A (5) (f) (i) (B) of Schedule 1 — the Minister is satisfied that the declaration is true; and
 - (e) if a declaration was required to be made for paragraph 1218A (5) (h), (k) or (l) of Schedule 1 — the Minister is satisfied that the declaration is true.
- 495.216 For an applicant who met the requirements of subitem 1218A (5A) of Schedule 1 — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (C) of Schedule 1; and
 - (b) the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
 - (c) the applicant has applied for a skills assessment for his or her nominated skilled occupation; and
 - (d) the applicant has been in Australia as the holder of a Working Holiday (Temporary) (Class TZ) visa for a period of at least 6 months immediately before the day when the application is made.

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- 495.217 For an applicant who met the requirements of subitem 1218A (5B) of Schedule 1 — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
 - (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (C) of Schedule 1; and
 - (b) the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
 - (c) the applicant has applied for a skills assessment for his or her nominated skilled occupation; and
 - (d) the applicant has completed the course, training or work experience for which the applicant was granted the Subclass 442 (Occupational Trainee) visa.
- 495.218 For an applicant who met the requirements of paragraph 1218A (6) (b) of Schedule 1 — the Minister is satisfied that a relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
- 495.219 If a declaration was required to be made for subparagraph 1218A (6) (a) (i) of Schedule 1 in relation to the applicant — the Minister is satisfied that the declaration is true.
- 495.219A The Minister is satisfied that the applicant is sponsored by a State or Territory government agency.

495.22 Criteria to be satisfied at time of decision

- 495.220 For an applicant:
- (a) who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or

- (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;

clauses 495.224, 495.225, 495.226, 495.227, 495.229, 495.230, 495.233 and 495.234 only must be satisfied.

495.221 If regulation 2.27B applies:

- (a) the applicant provides, for the application, the assessment of his or her skills mentioned in subregulation 2.27B (4); and
(b) the skills of the applicant for the skilled occupation have been assessed by the relevant assessing authority as suitable for that occupation.

495.222 (1) If the applicant:

- (a) was an applicant for a Skilled — Independent (Migrant) (Class BN) visa; and
(b) was invited by the Minister, under regulation 2.08DA, to apply for a Skilled — Independent Regional (Provisional) (Class UX) visa; and
(c) made the application for the Skilled — Independent Regional (Provisional) (Class UX) visa not later than 6 months after the day when the applicant received the invitation;

the applicant's assessed score for the Skilled — Independent (Migrant) (Class BN) visa is equal to or greater than the applicable pass mark for the Skilled — Independent Regional (Provisional) (Class UX) visa.

(2) If subclause (1) does not apply, the applicant has the qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note Subdivision B of Division 3 of Part 2 of the Act provides in sections 92 to 96 for the application of a **points system**, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.6 of Part 2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister (Act, section 96).

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- 495.223 The applicant has vocational English.
- 495.224 No evidence has become available since the time of application that the information given to satisfy Subdivision 495.21, or to meet the requirements of item 1218A of Schedule 1, was false or misleading in a material particular.
- 495.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010.
- 495.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 495.227 The applicant is sponsored by a State or Territory government agency, the sponsorship has been accepted by the Minister, and the sponsorship is still in force.
- 495.229 Each member of the family unit of the applicant who is an applicant for a Subclass 495 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 495.230 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 495.231 Grant of the visa would not result in either:
- (a) the number of Subclass 495 visas granted in a financial year exceeding the maximum number of Subclass 495 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 495) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.

- 495.232 (1) A relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.
- 495.233 If an Australian Federal Police check is required in relation to the applicant, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 495.234 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.
- 495.235 If the applicant's qualifying score when assessed for the visa under Subdivision B of Division 3 of Part 2 of the Act included (or, under subregulation 2.26A (5A), was taken to have included) the bonus points relating to a designated security mentioned in paragraph (a) of item 6A82 of Part 8 of Schedule 6A, the applicant has deposited at least AUD100 000 in a designated security for a term of not less than 12 months.

495.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

495.31 Criteria to be satisfied at time of application

- 495.311 The applicant:

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- (a) is a member of the family unit of a person who satisfies the primary criteria in Subdivision 495.21, and has made a combined application with that person; or
- (b) is a member of the family unit of a person who is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa on the basis of satisfying the primary criteria for the grant of that visa.
- 495.312 If:
- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant has complied with the conditions of that visa.
- 495.313 If a declaration was required to be made for paragraph 1218A (4) (b) of Schedule 1 in relation to the applicant — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 495.314 If a declaration was required to be made for subitem 1218A (5) of Schedule 1 in relation to the applicant:
- (a) if a declaration was required to be made for subparagraph 1218A (5) (e) (i) of Schedule 1 in relation to the applicant — the Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (i) a Medical Officer of the Commonwealth;
- (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (B) of Schedule 1;
- (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5) (e) (i) (C) of Schedule 1; and
- (b) if a declaration was required to be made for subparagraph 1218A (5) (e) (ii) of Schedule 1 in relation to the applicant — the Minister is satisfied that

- the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made; and
- (c) if a declaration was required to be made for paragraph 1218A (5) (k) or (l) of Schedule 1 in relation to the applicant — the Minister is satisfied that the declaration is true.
- 495.315 If a declaration was required to be made for paragraph 1218A (5A) (c) of Schedule 1 in relation to the applicant — the Minister is satisfied that:
- (a) the applicant has undergone a medical examination for the purpose of the application, carried out by any of the following:
- (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (B) of Schedule 1;
 - (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5A) (c) (i) (C) of Schedule 1; and
- (b) the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 495.316 If a declaration was required to be made for paragraph 1218A (5B) (c) of Schedule 1 in relation to the applicant — the Minister is satisfied that:
- (a) the applicant undergone a medical examination for the purpose of the application, carried out by any of the following:
- (i) a Medical Officer of the Commonwealth;
 - (ii) a medical practitioner approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (B) of Schedule 1;

- (iii) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1218A (5B) (c) (i) (C) of Schedule 1; and
- (b) the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

495.32 Criteria to be satisfied at time of decision

- 495.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 495 visa.
- 495.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010.
- 495.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 495.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied for the applicant.
- 495.326 If an Australian Federal Police check is required in relation to the applicant, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 495.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

495.4 Circumstances applicable to grant

- 495.411 If the applicant:
- (a) meets the requirements of subitem (4), (5), (5A) or (5B) of item 1218A of Schedule 1; or

- (b) is a member of the family unit of a person who meets the requirements of subitem (4), (5), (5A) or (5B) of item 1218A of Schedule 1, and made a combined application with that person;

the applicant may be in Australia (but not in immigration clearance) or outside Australia when the visa is granted.

- 495.412 In any other case, the applicant must be outside Australia when the visa is granted.

495.5 When visa is in effect

- 495.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

495.6 Conditions

- 495.611 If the applicant is outside Australia at time of grant, first entry must be made before a date specified by the Minister for the purpose.
- 495.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.
- 495.613 Condition 8515 may be imposed.
- 495.614 Condition 8539 must be imposed.

495.7 Way of giving evidence

- 495.711 No evidence need be given.
- 495.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 496 Skilled — Designated Area-sponsored (Provisional)

496.1 Interpretation

496.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can **complete** a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree has the meaning given in subregulation 2.26A (6).

designated area means an area specified by an instrument in writing under item 6701 in Schedule 6 as a designated area.

diploma has the meaning given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For **registered course**, **relevant assessing authority** and **skilled occupation**, see regulation 1.03.

Note 2 For **vocational English**, see regulation 1.15B.

496.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

496.21 Criteria to be satisfied at time of application

496.210 The application must be made before 1 September 2007.

- 496.211 For an applicant:
- (a) who is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;
- clause 496.212 only must be satisfied.
- 496.212 The applicant is sponsored by a person (the *sponsor*):
- (a) who is 18 or more; and
 - (b) who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (c) to whom the applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 496 visa, has 1 of the following relationships:
 - (i) a parent;
 - (ii) a child or a step-child who is not a dependent child of the sponsor;
 - (iii) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
 - (iv) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
 - (v) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
 - (vi) a grandchild or first cousin.
- 496.213 The sponsor:
- (a) is resident in a designated area; and
 - (b) was resident in 1 or other of the designated areas throughout the period of 12 months immediately before Immigration receives the relevant sponsorship (except for short absences for the purposes of business or recreation).
- 496.214 The applicant has nominated a skilled occupation in his or her application.

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- 496.215 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:
- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 6 months in the period of 12 months immediately before the day on which the application was made; or
 - (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;

- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.
- 496.216 In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:
- (a) held:
 - (i) a substantive visa; or
 - (ii) a Bridging A (Class WA) visa; or
 - (iii) a Bridging B (Class WB) visa;authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.

496.22 Criteria to be satisfied at time of decision

- 496.221 For an applicant:
- (a) who is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (b) in relation to whom the last substantive visa held by the applicant since last entering Australia was a visa of that kind;
- clause 496.222 and clauses 496.227 to 496.234 only must be satisfied.
- 496.222 The sponsorship given with the applicant's application under paragraph 1226 (3) (g) of Schedule 1 has been approved by the Minister and is still in force.
- 496.223 The sponsor is still resident in a designated area.
- 496.224 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
- 496.225 If the assessment mentioned in paragraph 1226 (3) (f) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.
- 496.226 Either the applicant has vocational English, or:
- (a) he or she has proficiency in English of at least the standard required for the award of 10 points for the language skill factor of the general points test specified in item 6311 of Schedule 6; and
 - (b) his or her sponsor lives in a State or Territory specified by an instrument in writing for this paragraph as a State or Territory in which arrangements are established for suitable English-language training for applicants to whom this paragraph applies; and
 - (c) the Minister is satisfied that the applicant has paid any fee or charge for that training.

- 496.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1226 (3) (f) of Schedule 1 is false or misleading in a material particular.
- 496.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 496.229 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 496.230 If the applicant held a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa at the time of application, the applicant has complied with the conditions of that visa.
- 496.231 Each member of the family unit of the applicant who is an applicant for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 496.232 Each member of the family unit of the applicant who is not an applicant for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 496.233 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is under 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

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- 496.234 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

496.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

496.31 Criteria to be satisfied at time of application

- 496.311 The applicant:
- (a) is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 496.21; or
 - (b) is a member of the family unit of the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.

- 496.312 The sponsorship given for the person who satisfies the primary criteria under paragraph 1226 (3) (g) of Schedule 1 includes sponsorship of the applicant.

496.32 Criteria to be satisfied at time of decision

- 496.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.
- 496.322 The sponsorship mentioned in clause 496.312 has been approved by the Minister and is still in force.
- 496.323 If the applicant held a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa at the time of application, the applicant has complied with the conditions of the visa.
- 496.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

- 496.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 496.326 If the applicant is under 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 496.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

496.4 Circumstances applicable to grant

- 496.411 An applicant who, at the time of application, is not the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa must be outside Australia when the visa is granted.
- 496.412 An applicant who, at the time of application, is the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

496.5 When visa is in effect

- 496.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

496.6 Conditions

- 496.611 If the applicant is outside Australia at the time of grant, first entry must be made before a date specified by the Minister for the purpose.
- 496.612 If the applicant satisfies the secondary criteria, either or both of conditions 8502 and 8514 may be imposed.

496.613 Condition 8515 may be imposed.

496.614 Condition 8549 is imposed.

496.7 Way of giving evidence

496.711 No evidence need be given.

496.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 497 Graduate — Skilled

497.1 Interpretation

Note There are no interpretation provisions specific to this Part.

497.2 Primary criteria

497.21 Criteria to be satisfied at time of application

497.210 The application must be made before 1 September 2007.

497.211 The applicant has complied substantially with the conditions to which the visa held by the applicant is subject.

Note The requirements for making a valid application for a Graduate — Skilled (Temporary) (Class UQ) visa are set out in item 1212A of Schedule 1.

497.22 Criteria to be satisfied at time of decision

497.221 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

497.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005.

497.223 The Minister is satisfied that the expressed intention of the applicant to make a valid application for a Skilled — Independent Overseas Student (Class DD), Skilled — Australian-sponsored Overseas Student (Class DE) or Skilled — Independent Regional (Provisional) (Class UX) visa is genuine.

497.224 There is no evidence that the applicant will not be able to make a valid application for a Skilled — Independent Overseas Student (Class DD), Skilled — Australian-sponsored Overseas Student (Class DE) or Skilled — Independent Regional (Provisional) (Class UX) visa.

497.225 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

497.3 Secondary criteria

497.31 Criteria to be satisfied at time of application

497.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 497.21 (the *primary applicant*) and:

(a) the applicant has made a combined application with the primary applicant; and

(b) the Minister has not decided to grant or refuse to grant a Graduate — Skilled (Temporary) (Class UQ) visa to the primary applicant.

497.32 Criteria to be satisfied at time of decision

497.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 497 visa.

497.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004 and 4005.

497.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 497.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

497.4 Circumstances applicable to grant

- 497.411 The applicant must be in Australia at the time of grant.

497.5 When visa is in effect

- 497.511 Temporary visa permitting the holder to travel to, enter and remain in Australia for a period (not longer than 6 months after the date of grant of the visa) specified by the Minister for the purpose.

497.6 Conditions

- 497.611 If the applicant satisfies the primary criteria, condition 8501.
- 497.612 If the applicant satisfies the secondary criteria, conditions 8501 and 8522.

497.7 Way of giving evidence

- 497.711 No evidence need be given.
- 497.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 570 Independent ELICOS Sector

570.1 Interpretation

- 570.111 In this Part:
course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note **foreign country** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

570.2 Primary criteria

Note 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.

570.21 Criteria to be satisfied at time of application

570.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);

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- (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision

- or the Minister's decision not to revoke the cancellation — the later of:
- (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant:
 - (i) is the holder of a Subclass 560, 562 or 570 visa that is subject to condition 8101; or
 - (ii) is the holder of a Subclass 572 visa:
 - (A) granted on the basis that the applicant proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (B) that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced an ELICOS.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant:
 - (i) is the holder of a Subclass 560, 562 or 570 visa; or
 - (ii) is the holder of a Subclass 572 visa granted on the basis that the applicant proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of the ELICOS for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

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- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 571, 572, 573, 574, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of an ELICOS other than the education provider of the course, or courses, of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

570.22 Criteria to be satisfied at time of decision

- 570.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 570.211 (4) or (5), the applicant satisfies the criteria in clauses 570.222 to 570.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 570.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 570.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 570.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 570.223 to 570.234.
- (3) If, at the time of application, the applicant met the requirements of subclause 570.211 (5):
- (a) the applicant continues to meet the requirements of paragraphs 570.211 (5) (a) and (d); and

- (b) either:
 - (i) the Minister has no reason to believe that the applicant is not a genuine student; or
 - (ii) the applicant satisfies the criteria in clauses 570.222 to 570.234.
- 570.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a full-time ELICOS (*an acceptable ELICOS*):
- (a) that has been gazetted under regulation 1.40A; and
 - (b) the provider of which is not a suspended education provider.
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable ELICOS.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable ELICOS.
- 570.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 570 and the assessment level to which the applicant is subject, in relation to:
 - (i) the applicant's English language proficiency for the purposes of each ELICOS that the applicant proposes to undertake; and
 - (ii) the financial capacity of the applicant to undertake each of those ELICOS without contravening any condition of the visa relating to work; and
 - (iii) other requirements under Schedule 5A; and

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- (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
- (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter.
- 570.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
 - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 570.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 570.227 If:
- (a) the application was made in Australia; and
 - (b) the applicant is subject to assessment level 2, 3, 4 or 5; and
 - (c) at the time of application, the applicant met the requirements of clause 570.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);

- (I) Long Stay (Visitor) (Class TN);
- (IA) Maritime Crew (Temporary) (Class ZM);
- (J) Medical Practitioner (Temporary) (Class UE);
- (K) Retirement (Temporary) (Class TQ);
- (L) Short Stay (Visitor) (Class TR);
- (LA) Superyacht Crew (Temporary) (Class UW);
- (M) Supported Dependant (Temporary) (Class TW);
- (N) Temporary Business Entry (Class UC);
- (NA) Tourist (Class TR);
- (NB) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 570 visa.

- 570.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
 - (b) the Foreign Minister recommends the grant of the visa.

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- 570.229 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.
- 570.230 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
 - (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking an ELICOS.
- 570.230A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 570.231 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.
- 570.232 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
 - (b) of a type that was specified for Subclass 570 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.

- 570.233 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 570.234 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 570.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

570.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

570.31 Criteria to be satisfied at time of application

- 570.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
 - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 570.21.
- 570.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);

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- (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) a special purpose visa; or
 - (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 570.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563, 570 or 572 visa that is subject to condition 8101; and

- (b) for an applicant who is the holder of a Subclass 560, 563 or 570 visa, the applicant:
 - (i) is a member of the family unit of a person (the *primary person*) who holds a Subclass 560, 562 or 570 visa; and
 - (ii) gives to the Minister evidence that the primary person has commenced an ELICOS; and
- (c) for an applicant who is the holder of a Subclass 572 visa:
 - (i) the visa was granted on the basis that the applicant was a member of the family unit of a person (the *primary person*) who was the holder of a student visa granted on the basis that the primary person proposed to commence, or had commenced, an ELICOS as a principal course; and
 - (ii) the applicant gives to the Minister evidence that the primary person has commenced an ELICOS; and
- (d) the application was made on form 157P or 157P (Internet).
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person:
 - (i) who is the holder of a Subclass 560, 562 or 570 visa, having satisfied the primary criteria for that visa; or
 - (ii) who is the holder of a Subclass 572 visa granted on the basis that the person proposed to commence, or had commenced, an ELICOS as a principal course.

570.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 570 or 572 visa to the primary applicant was made.

570.315 The applicant is not a secondary exchange student.

570.32 Criteria to be satisfied at time of decision

570.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 570.312 (4), the applicant satisfies the criteria in clauses 570.322 to 570.332.

(2) If, at the time of application, the applicant met the requirements of subclause 570.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 570.312 (4) (a) and (c); and

(b) either:

(i) both of the following:

(A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322;

(B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 570.323 (b); or

(ii) the applicant satisfies the criteria in clauses 570.322 to 570.332.

570.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

(ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

(A) the Commonwealth or the government of a State or Territory; or

(B) the government of a foreign country; or

(C) a multilateral agency;

- (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
 - (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 570.21 and 570.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to an ELICOS that is, or to ELICOS that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.
- 570.323 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 570.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 570.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

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- 570.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 570.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 570.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 570.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 570.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 570.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 570.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 570.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 570.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 570.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 570 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 570.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

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- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 570 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 570.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

570.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

570.334 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

570.4 Circumstances applicable to grant

570.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

570.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

570.5 When visa is in effect

- 570.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
 - (b) otherwise — until a date specified by the Minister.

570.6 Conditions

- 570.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
 - (d) if the applicant is a citizen of Iran, condition 8204; and
 - (e) subject to clause 570.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- 570.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 570.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3); condition 8534 may be imposed.

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- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
 - (b) evidence that the applicant has a further \$12 000 in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A208 (1).
- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 570 visa that is subject to condition 8534, condition 8534.
- (6) In this clause:
funds from an acceptable source has the meaning given by subclause 5A208 (2).
- 570.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake an ELICOS that is, or ELICOS that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 570.615 (1) If the applicant (the *primary applicant*) is seeking to undertake an ELICOS that is, or ELICOS that are together, of more than 10 months duration, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

- 570.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivision 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.
- 570.617 If the applicant satisfies the secondary criteria, condition 8104.

570.7 Way of giving evidence

570.711 No evidence need be given.

570.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 571 Schools Sector

571.1 Interpretation

571.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means:

- (a) in relation to a secondary exchange student — a full-time course of study under a secondary school student exchange program approved by the State or Territory education authority that administers the program; or
- (b) in any other case — a full-time registered course of study.

Note 1 *secondary exchange student* is defined in regulation 1.03.

Note 2 To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note *foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

571.2 Primary criteria

Note 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.

571.21 Criteria to be satisfied at time of application

571.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:

- (i) Border (Temporary) (Class TA);
- (ii) Business (Temporary) (Class TB);
- (iii) Cultural/Social (Temporary) (Class TE);
- (iv) Educational (Temporary) (Class TH);
- (v) Electronic Travel Authority (Class UD);
- (vi) Expatriate (Temporary) (Class TJ);
- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (ixa) Maritime Crew (Temporary) (Class ZM);
- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);
- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiiia) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or

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- (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
- (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 571 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 572, 573, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and

- (c) except if the applicant is a secondary exchange student, the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

571.22 Criteria to be satisfied at time of decision

571.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 571.211 (4), the applicant satisfies the criteria in clauses 571.222 to 571.236.

(2) If, at the time of application, the applicant met the requirements of subclause 571.211 (4):

- (a) the applicant continues to meet the requirements of paragraph 571.211 (4) (a); and
- (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 571.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 571.223 to 571.236.

571.222 (1) Except if:

- (a) subclause (2) applies; or
- (b) the application was made on form 157E; or
- (c) the applicant is a secondary exchange student;

the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (***an acceptable course***).

(2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

(4) If the applicant is a secondary exchange student, the applicant is enrolled in an acceptable course.

571.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

(2) An applicant meets the requirements of this subclause if:

(a) for an applicant who is not a person designated under regulation 2.07AO:

(i) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 571 and the assessment level to which the applicant is subject, in relation to:

(A) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and

(B) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and

(C) other requirements under Schedule 5A; and

(ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

(A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and

(B) any other relevant matter; or

- (b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:
 - (i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant:
 - (A) has access to sufficient funds of the person's own or provided by a relative; or
 - (B) is sponsored by an approved special student sponsor under Division 1.4D of these Regulations, with a sponsorship that is in force; and
 - (ii) the applicant's proficiency in English is appropriate to the proposed course of study; and
 - (iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter.

571.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

571.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

571.227 If:

- (a) the application was made in Australia; and
- (b) the applicant is subject to assessment level 2, 3, 4 or 5; and

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- (c) at the time of application, the applicant met the requirements of clause 571.211:
- (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);
 - (NB) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and

(B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 571 visa.

571.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

571.229 If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

571.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

571.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.

571.231 If the applicant is subject to assessment level 3, the Minister is satisfied that the applicant is of an age that is appropriate to the entry level for the applicant's principal course.

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- 571.232 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
 - (b) of a type that was specified for Subclass 571 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 571.233 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 571.234 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 571.235 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.
- 571.236 If the applicant is not a secondary exchange student, the year or level of school study that the applicant intends to undertake must not be a year or level that is more than 18 months below a year or level that the applicant has previously undertaken in Australia or another country.
- 571.237 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

571.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

571.31 Criteria to be satisfied at time of application

- 571.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
 - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 571.21.
- 571.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or

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- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 571.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 571 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 571 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 571 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 571 student visa, having satisfied the primary criteria for that visa.

571.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 571 visa to the primary applicant was made.

571.32 Criteria to be satisfied at time of decision

571.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 571.312 (4), the applicant satisfies the criteria in clauses 571.322 to 571.332.

(2) If, at the time of application, the applicant met the requirements of subclause 571.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 571.312 (4) (a) and (c); and

(b) either:

(i) both of the following:

(A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322;

(B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 571.323 (b); or

(ii) the applicant satisfies the criteria in clauses 571.322 to 571.332.

571.322 The applicant is a member of the family unit of a person (the **primary person**):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

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- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 571.21 and 571.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

571.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

- 571.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 571.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 571.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 571.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 571.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 571.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 571.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 571.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 571.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.

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- 571.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 571.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 571.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 571 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 571.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the **primary person**) to whom subclause (4) applies; and

- (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:

- (a) is the holder of a Subclass 571 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 571.2; and
- (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

571.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

571.334 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

571.4 Circumstances applicable to grant

- 571.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 571.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

571.5 When visa is in effect

- 571.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
 - (b) otherwise — until a date specified by the Minister.

571.6 Conditions

- 571.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
 - (d) if the applicant is a citizen of Iran, condition 8204; and
 - (e) subject to clause 571.612, any 1 or more of conditions 8303, 8523, 8534 and 8535 may be imposed.
- 571.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 571.613 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and

- (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
 - (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

571.614 If the applicant satisfies the secondary criteria, condition 8104.

571.7 Way of giving evidence

571.711 No evidence need be given.

571.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 572 Vocational Education and Training Sector

572.1 Interpretation

572.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note foreign country is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

572.2 Primary criteria

Note 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.

572.21 Criteria to be satisfied at time of application

572.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);

- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iii) Subclass 485 (Skilled — Graduate);
 - (iv) Subclass 497 (Graduate — Skilled).
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate — Skilled) visa; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or

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- (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
 - (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 562 or 572 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
 - (6) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 570, 571, 573, 574, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

572.22 Criteria to be satisfied at time of decision

- 572.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 572.211 (4), the applicant satisfies the criteria in clauses 572.222 to 572.234.

- (2) If, at the time of application, the applicant met the requirements of subclause 572.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 572.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 572.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 572.223 to 572.234.
- 572.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- 572.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
- (a) for an applicant who is not a person designated under regulation 2.07AO:
 - (i) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 572 and the assessment level to which the applicant is subject, in relation to:

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- (A) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and
 - (B) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and
 - (C) other requirements under Schedule 5A; and
 - (ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter; or
 - (b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:
 - (i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant:
 - (A) has access to sufficient funds of the person's own or provided by a relative; or
 - (B) is sponsored by an approved special student sponsor under Division 1.4D of these Regulations, with a sponsorship that is in force; and
 - (ii) the applicant's proficiency in English is appropriate to the proposed course of study; and
 - (iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter.

572.224 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and

- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 572.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 572.227 If:
- (a) the application was made in Australia; and
 - (b) the applicant is subject to assessment level 2, 3, 4 or 5; and
 - (c) at the time of application, the applicant met the requirements of clause 572.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);

- (NA) Tourist (Class TR);
- (NB) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (BA) Subclass 485 (Skilled — Graduate);
 - (C) Subclass 497 (Graduate — Skilled); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 572 visa.

572.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

572.229 If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and

- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

572.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

572.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.

572.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:

- (a) a principal course; and
- (b) of a type that was specified for Subclass 572 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.

572.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

572.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

572.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:

- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
- (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.

- 572.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

572.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

572.31 Criteria to be satisfied at time of application

- 572.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 572.21.

- 572.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);

- (xiiia) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (ia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate Skilled); or
- (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 572.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 563 or 572 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 572 visa; and

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- (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 572 visa mentioned in paragraph (c) has commenced a course of study.
 - (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 572 student visa, having satisfied the primary criteria for that visa.
- 572.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 572 visa to the primary applicant was made.
- 572.315 The applicant is not a secondary exchange student.

572.32 Criteria to be satisfied at time of decision

- 572.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 572.312 (4), the applicant satisfies the criteria in clauses 572.322 to 572.332.
- (2) If, at the time of application, the applicant met the requirements of subclause 572.312 (4):
- (a) the applicant continues to meet the requirements of paragraphs 572.312 (4) (a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 572.322;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 572.323 (b); or

- (ii) the applicant satisfies the criteria in clauses 572.322 to 572.332.

572.322 The applicant is a member of the family unit of a person (the **primary person**):

- (a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

- (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

- (A) the Commonwealth or the government of a State or Territory; or
- (B) the government of a foreign country; or
- (C) a multilateral agency;

- (iii) the primary person:

- (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
- (B) has been lawfully in Australia for 12 months or more; or

- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 572.21 and 572.22 and who meets one of the following:

- (i) the primary person is subject to assessment level 1 or 2;

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

- (A) the Commonwealth or the government of a State or Territory; or
- (B) the government of a foreign country; or
- (C) a multilateral agency;

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- (iii) the primary person:
- (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.
- 572.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 572.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 572.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 572.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 572.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 572.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 572.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 572.322; and

- (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 572.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 572.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
- (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 572.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
- (b) if the applicant is in Australia — from Australia.
- 572.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 572.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
- (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 572 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 572.2; and
- (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and

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- (c) was, at the time of the decision to grant the visa:
- (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

(3) If the applicant:

- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(4) This subclause applies to a primary person who:

- (a) is the holder of a Subclass 572 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 572.2; and
- (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or

(B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

572.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

572.334 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

572.4 Circumstances applicable to grant

572.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

572.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

572.5 When visa is in effect

572.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

572.6 Conditions

572.611 If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8204; and

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- (e) subject to clause 572.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- 572.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 572.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3); condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
 - (b) evidence that the applicant has a further \$12 000 in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A408 (1).

(5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 572 visa that is subject to condition 8534, condition 8534.

(6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A408 (2).

572.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

572.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

572.616 (1) If the applicant satisfies the secondary criteria:

- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
- (b) if the applicant is a citizen of Iran, condition 8204; and
- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
- (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.

(2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:

- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
- (b) the applicant was the holder of a Subclass 563 visa; or
- (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

572.617 If the applicant satisfies the secondary criteria, condition 8104.

572.7 Way of giving evidence

572.711 No evidence need be given.

572.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 573 Higher Education Sector

573.1 Interpretation

573.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note **foreign country** is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

573.2 Primary criteria

Note 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.

573.21 Criteria to be satisfied at time of application

573.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);

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- (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (ia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate — Skilled).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate — Skilled) visa; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and

- (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of:
- (i) a Subclass 560, 562 or 573 visa that is subject to condition 8101; or
 - (ii) a Subclass 574 visa that is subject to condition 8101 and was granted on the basis that the applicant proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
- (b) the application was made on form 157P or 157P (Internet); and
- (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 574, 575 or 576 visa; and
- (b) the application was made on form 157A or 157A (Internet); and
- (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
- (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

573.22 Criteria to be satisfied at time of decision

- 573.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 573.211 (4), the applicant satisfies the criteria in clauses 573.222 to 573.234.

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- (2) If, at the time of application, the applicant met the requirements of subclause 573.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 573.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 573.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 573.223 to 573.234.
- 573.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- 573.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
- (a) for an applicant who is not a person designated under regulation 2.07AO:
 - (i) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 573 and the assessment level to which the applicant is subject, in relation to:

- (A) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and
- (B) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and
- (C) other requirements under Schedule 5A; and
- (ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter; or
- (b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:
 - (i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant:
 - (A) has access to sufficient funds of the person's own or provided by a relative; or
 - (B) is sponsored by an approved special student sponsor under Division 1.4D of these Regulations, with a sponsorship that is in force; and
 - (ii) the applicant's proficiency in English is appropriate to the proposed course of study; and
 - (iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter.

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- 573.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
 - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 573.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 573.227 If:
- (a) the application was made in Australia; and
 - (b) the applicant is subject to assessment level 2, 3, 4 or 5; and
 - (c) at the time of application, the applicant met the requirements of clause 573.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);

- (M) Supported Dependant (Temporary) (Class TW);
- (N) Temporary Business Entry (Class UC);
- (NA) Tourist (Class TR);
- (NB) Visitor (Class TV);
- (O) Working Holiday (Temporary) (Class TZ); or
- (ii) as the holder of a special purpose visa; or
- (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (BA) Subclass 485 (Skilled — Graduate);
 - (C) Subclass 497 (Graduate — Skilled); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 573 visa.

- 573.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
 - (b) the Foreign Minister recommends the grant of the visa.
- 573.229 If:
- (a) the application was made in Australia; and
 - (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or

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- (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.
- 573.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- 573.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.
- 573.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
- (b) of a type that was specified for Subclass 573 visas by the Minister in a Gazette Notice:
- (i) made under regulation 1.40A; and
- (ii) in force at the time the application was made.
- 573.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 573.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 573.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:

- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
- (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.

573.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

573.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

573.31 Criteria to be satisfied at time of application

573.311 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 560 or 562 visa; or
- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 573.21.

573.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);

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- (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (ia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate Skilled); or
 - (e) a person designated under regulation 2.07AO.
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 573.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.

- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 563, 573 or 574 visa that:
 - (i) for a holder of a Subclass 574 visa — was granted on the basis that:
 - (A) the applicant was a member of the family unit of a person (the *primary person*) who satisfied the primary criteria in Division 574.2; and
 - (B) the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
 - (ii) for all holders — is subject to condition 8101 or 8104; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562, 573 or 574 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562, 573 or 574 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person (the *primary person*) who:
 - (i) holds a Subclass 560, 562 or 573 visa, having satisfied the primary criteria for that visa; or
 - (ii) holds a Subclass 574 visa that was granted on the basis that the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework.

573.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 573 or 574 visa to the primary applicant was made.

573.32 Criteria to be satisfied at time of decision

573.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 573.312 (4), the applicant satisfies the criteria in clauses 573.322 to 573.332.

(2) If, at the time of application, the applicant met the requirements of subclause 573.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 573.312 (4) (a) and (c); and

(b) either:

(i) both of the following:

(A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322;

(B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 573.323 (b); or

(ii) the applicant satisfies the criteria in clauses 573.322 to 573.332.

573.322 The applicant is a member of the family unit of a person (the **primary person**):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 573.21 and 573.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

573.323 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

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- 573.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 573.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 573.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 573.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 573.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 573.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 573.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 573.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 573.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 573.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:

- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 573.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 573.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is:
 - (i) the holder of a Subclass 573 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 573.2; or
 - (ii) the holder of a Subclass 574 visa, granted:
 - (A) on or after 1 December 2003; and
 - (B) on the basis of satisfying the primary criteria in Division 574.2; and
 - (C) on the basis that the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:

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- (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

(3) If the applicant:

- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(4) This subclause applies to a primary person who:

- (a) is:
 - (i) the holder of a Subclass 573 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 573.2; or
 - (ii) the holder of a Subclass 574 visa, granted:
 - (A) on or after 1 December 2003; and
 - (B) on the basis of satisfying the primary criteria in Division 574.2; and
 - (C) on the basis that the primary person proposed to commence, or had commenced, as a principal course, a course of study for the award of a masters degree by coursework; and
- (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:

(A) a provincial or state government in a foreign country, with the written support of the government of that country; or

(B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

573.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

573.334 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

573.4 Circumstances applicable to grant

573.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

573.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

573.5 When visa is in effect

573.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

(a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and

(b) otherwise — until a date specified by the Minister.

573.6 Conditions

- 573.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
 - (d) if the applicant is a citizen of Iran, condition 8203; and
 - (e) subject to clause 573.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- 573.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 573.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3); condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
 - (b) evidence that the applicant has a further \$12 000 in funds from an acceptable source; and

- (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
 - (4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A508 (1).
 - (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 573 visa that is subject to condition 8534, condition 8534.
 - (6) In this clause:
funds from an acceptable source has the meaning given by subclause 5A508 (2).
- 573.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 573.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 573.616 (1) If the applicant satisfies the secondary criteria:
- (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and

- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

573.617 If the applicant satisfies the secondary criteria, condition 8104.

573.7 Way of giving evidence

573.711 No evidence need be given.

573.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 574 Postgraduate Research Sector

574.1 Interpretation

574.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note foreign country is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

574.2 Primary criteria

Note 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.

574.21 Criteria to be satisfied at time of application

574.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);

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- (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (ia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate — Skilled).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (v) a Subclass 497 (Graduate — Skilled) visa; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision

or the Minister's decision not to revoke the cancellation — the later of:

- (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 574 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study for which the visa held was granted.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 575 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course of study for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

574.22 Criteria to be satisfied at time of decision

- 574.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 574.211 (4), the applicant satisfies the criteria in clauses 574.223 to 574.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 574.211 (4):

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- (a) the applicant continues to meet the requirements of paragraph 574.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;
 - (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 574.224 (ba); or
 - (ii) the applicant satisfies the criteria in clauses 574.223 to 574.234.

574.222 (1) Except if subclause (2), (3) or (3A) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).

(2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.

(3) If the application was made in Australia and, at the time of application, the applicant was the holder of a Subclass 560 or 562 visa, the applicant satisfies the Minister that, in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a postgraduate thesis.

(3A) If the application was made in Australia and, at the time of application, the applicant was the holder of a Subclass 574 visa (the *current visa*):

- (a) the applicant satisfies the Minister that, in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the

applicant to remain in Australia during the marking of a postgraduate thesis; and

- (b) either:
- (i) the applicant has held the current visa, or a combination of the current visa and 1 or more other Subclass 560 or 574 visas, on that basis for a continuous period of 6 months or less; or
 - (ii) the applicant has held the current visa, or a combination of the current visa and 1 or more other Subclass 560 or 574 visas, on that basis for more than 6 months and there are exceptional circumstances justifying the grant of the visa.

(4) If the application was made on form 157E, the applicant is enrolled in an acceptable course.

574.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

(2) An applicant meets the requirements of this subclause if:

- (a) for an applicant who is not a person designated under regulation 2.07AO:
- (i) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 574 and the assessment level to which the applicant is subject, in relation to:
 - (A) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and
 - (B) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and
 - (C) other requirements under Schedule 5A; and
 - (ii) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:

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- (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter; or
- (b) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that:
- (i) the applicant has the financial capacity to undertake the course, without contravening any condition of the visa relating to work, because the applicant:
 - (A) has access to sufficient funds of the person's own or provided by a relative; or
 - (B) is sponsored by an approved special student sponsor under Division 1.4D of these Regulations, with a sponsorship that is in force; and
 - (ii) the applicant's proficiency in English is appropriate to the proposed course of study; and
 - (iii) the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (A) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (B) any other relevant matter.
- 574.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
 - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 574.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.

- 574.227 If:
- (a) the application was made in Australia; and
 - (b) the applicant is subject to assessment level 2, 3, 4 or 5;
and
 - (c) at the time of application, the applicant met the requirements of clause 574.211:
 - (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);
 - (NB) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);

- (BA) Subclass 485 (Skilled — Graduate);
- (C) Subclass 497 (Graduate — Skilled); or
- (iv) as a person:
 - (A) who was not the holder of a substantive visa; and
 - (B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 574 visa.

574.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

574.229 If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.

574.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

- 574.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40, unless the applicant is a person designated under regulation 2.07AO.
- 574.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:
- (a) a principal course; and
 - (b) of a type that was specified for Subclass 574 visas by the Minister in a Gazette Notice:
 - (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 574.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 574.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 574.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.
- 574.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

574.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

574.31 Criteria to be satisfied at time of application

- 574.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
 - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 574.21.
- 574.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or

- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (ia) Subclass 485 (Skilled — Graduate);
 - (iii) Subclass 497 (Graduate Skilled); or
 - (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 574.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 574 visa that is subject to condition 8101 or 8104; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 574 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 574 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and

- (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 574 student visa, having satisfied the primary criteria for that visa.

574.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 574 visa to the primary applicant was made.

574.32 Criteria to be satisfied at time of decision

574.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 574.312 (4), the applicant satisfies the criteria in clauses 574.322 to 574.332.

(2) If, at the time of application, the applicant met the requirements of subclause 574.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 574.312 (4) (a) and (c); and

(b) either:

(i) both of the following:

(A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322;

(B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 574.323 (b); or

(ii) the applicant satisfies the criteria in clauses 574.322 to 574.332.

574.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

- (i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, **gazetted country** meant a country specified by Gazette Notice for the purpose of Part 560.

- (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more;
- (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 574.21 and 574.22 and who meets one of the following:
- (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.

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- 574.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 574.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 574.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 574.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 574.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 574.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 574.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 574.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 574.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 574.322:

- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 574.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 574.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 574.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 574 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 574.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or

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- (B) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
- (iii) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the *primary person*) to whom subclause (4) applies; and
- (b) was not included in the application for a student visa made by the primary person;

the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 574 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 574.2; and
- (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
- (c) was, at the time of the decision to grant the visa:
- (i) fully funded; or
- (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
- (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
- (B) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
- (iii) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government.

574.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

574.334 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

574.4 Circumstances applicable to grant

574.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

574.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

574.5 When visa is in effect

574.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:

- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
- (b) otherwise — until a date specified by the Minister.

574.6 Conditions

574.611 If the applicant satisfies the primary criteria:

- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
- (d) if the applicant is a citizen of Iran, condition 8203; and
- (e) subject to clause 574.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.

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- 574.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 574.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3); condition 8534 may be imposed.
- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
 - (b) evidence that the applicant has a further \$12 000 in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A608 (1).

(5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 574 visa that is subject to condition 8534, condition 8534.

(6) In this clause:

funds from an acceptable source has the meaning given by subclause 5A608 (2).

574.613A (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that has been gazetted for subregulation 1.44 (2) and the applicant did not provide evidence of English language proficiency otherwise required under clause 5A604 or 5A607 of Schedule 5A, condition 8534.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534.

574.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

574.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

574.616 (1) If the applicant satisfies the secondary criteria:

(a) in all cases:

(i) conditions 8501 and 8516; and

(ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and

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- (b) if the applicant is a citizen of Iran, condition 8204; and
 - (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (e) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

574.617 If the applicant satisfies the secondary criteria, condition 8104.

574.7 Way of giving evidence

574.711 No evidence need be given.

574.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 575 Non-Award Sector

575.1 Interpretation

575.111 In this Part:

course fees has the same meaning as in Schedule 5A.

course of study means a full-time registered course of study.

Note 1 non-award course is defined in regulation 1.03.

Note 2 To work out whether a course of study is a principal course, see subregulation 1.40 (2).

full period has the same meaning as in Schedule 5A.

fully funded has the same meaning as in Schedule 5A.

living costs has the same meaning as in Schedule 5A.

travel costs has the same meaning as in Schedule 5A.

Note foreign country is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

575.2 Primary criteria

Note 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.

575.21 Criteria to be satisfied at time of application

575.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (6).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);

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- (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and

- (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or
 - (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 562 or 575 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study.
- (6) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 570, 571, 572, 573, 574 or 576 visa; and
 - (b) the application was made on form 157A or 157A (Internet); and
 - (c) the applicant gives to the Minister evidence of an offer of a place with an education provider of a course of study other than the education provider of a course for which the visa held was granted; and
 - (d) the Minister is satisfied that there are exceptional circumstances justifying the change in enrolment.

575.22 Criteria to be satisfied at time of decision

- 575.221 (1) Unless, at the time of application, the applicant met the requirements of subclause 575.211 (4), the applicant satisfies the criteria in clauses 575.222 to 575.234.
- (2) If, at the time of application, the applicant met the requirements of subclause 575.211 (4):
- (a) the applicant continues to meet the requirements of paragraph 575.211 (4) (a); and
- (b) either:
- (i) both of the following:
- (A) the Minister has no reason to believe that the applicant is not a genuine student;
- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 575.224 (ba); or
- (ii) the applicant satisfies the criteria in clauses 575.223 to 575.234.
- 575.222 (1) Except if subclause (2) applies or if the application was made on form 157E, the applicant gives to the Minister a certificate of enrolment relating to the applicant undertaking a course of study the provider of which is not a suspended education provider (*an acceptable course*).
- (2) If a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment and the Minister is satisfied that the applicant needs to travel urgently, the applicant gives to the Minister satisfactory evidence that the applicant is enrolled in an acceptable course.
- (3) If the application was made on form 157E, the applicant is enrolled in an acceptable course.
- 575.223 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).

- (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 575 and the assessment level to which the applicant is subject, in relation to:
 - (i) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and
 - (ii) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and
 - (iii) other requirements under Schedule 5A; and
 - (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
 - (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter.
- 575.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4012A, 4013 and 4014; and
 - (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 575.225 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 575.227 If:
- (a) the application was made in Australia; and
 - (b) the applicant is subject to assessment level 2, 3, 4 or 5; and

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- (c) at the time of application, the applicant met the requirements of clause 575.211:
- (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);
 - (NB) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and

(B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 575 visa.

575.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

575.229 If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a full-time non-award course.

575.229A If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

575.230 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.

575.231 The applicant is enrolled in, or is the subject of a current offer of enrolment in, a course of study that is:

- (a) a principal course; and

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- (b) of a type that was specified for Subclass 575 visas by the Minister in a Gazette Notice:
- (i) made under regulation 1.40A; and
 - (ii) in force at the time the application was made.
- 575.232 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 575.233 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 575.234 If the applicant is subject to assessment level 3, 4 or 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed:
- (a) for an applicant who is subject to assessment level 3 — 60 weeks; or
 - (b) for an applicant who is subject to assessment level 4 or 5 — 40 weeks.
- 575.235 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

575.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

575.31 Criteria to be satisfied at time of application

- 575.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or

- (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 575.21.
- 575.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:
- (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner, or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:

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- (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 575.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 560, 563 or 575 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 575 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 575 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 575 student visa, having satisfied the primary criteria for that visa.
- 575.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 575 visa to the primary applicant was made.

575.315 The applicant is not a secondary exchange student.

575.32 Criteria to be satisfied at time of decision

575.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 575.312 (4), the applicant satisfies the criteria in clauses 575.322 to 575.332.

(2) If, at the time of application, the applicant met the requirements of subclause 575.312 (4):

(a) the applicant continues to meet the requirements of paragraphs 575.312 (4) (a) and (c); and

(b) either:

(i) both of the following:

(A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322;

(B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 575.323 (b); or

(ii) the applicant satisfies the criteria in clauses 575.322 to 575.332.

575.322 The applicant is a member of the family unit of a person (the *primary person*):

(a) who is the holder of a Subclass 560 or 562 visa and who meets one of the following:

(i) the primary person is a citizen of a gazetted country within the meaning of Part 560 as it read immediately before 1 July 2001;

Note Under former clause 560.111, *gazetted country* meant a country specified by Gazette Notice for the purpose of Part 560.

(ii) the primary person is undertaking a course of study paid for, wholly or in part, by:

(A) the Commonwealth or the government of a State or Territory; or

(B) the government of a foreign country; or

(C) a multilateral agency;

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- (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more; or
 - (b) who satisfies, or has satisfied, the primary criteria in Subdivisions 575.21 and 575.22 and who meets one of the following:
 - (i) the primary person is subject to assessment level 1 or 2;
 - (ii) the primary person is undertaking a course of study paid for, wholly or in part, by:
 - (A) the Commonwealth or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency;
 - (iii) the primary person:
 - (A) will be, or has been, granted a visa in relation to a course of study that is, or to courses of study that are together, of a duration of 12 months or more; or
 - (B) has been lawfully in Australia for 12 months or more.
- 575.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 575.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 575.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

- 575.326 The Minister is satisfied that:
- (a) the applicant is a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 575.322; and
 - (b) that primary person has adequate means to support himself or herself and the members of his or her family unit during the period of the applicant's intended stay in Australia; and
 - (c) on the basis of the applicant's stated intention, the applicant intends to comply with any conditions subject to which the visa is granted.
- 575.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 575.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 575.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 575.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 575.322:
- (a) the primary person is, or is expected soon to be, in Australia; and
 - (b) a nomination of the applicant by the primary person, on approved form 919, has been lodged and has been approved by the Minister.
- 575.330 The applicant gives evidence that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 575.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

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- 575.332 (1) If the applicant:
- (a) is a member of the family unit of a person (the ***primary person***) to whom subclause (2) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the applicant must give evidence, in accordance with Schedule 5B, for the assessment level to which the primary person was subject at the time of the decision in relation to the primary person.
- (2) This subclause applies to a primary person who:
- (a) is the holder of a Subclass 575 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 575.2; and
 - (b) was subject to assessment level 2, 3 or 4 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.
- (3) If the applicant:
- (a) is a member of the family unit of a person (the ***primary person***) to whom subclause (4) applies; and
 - (b) was not included in the application for a student visa made by the primary person;
- the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

- (4) This subclause applies to a primary person who:
 - (a) is the holder of a Subclass 575 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Division 575.2; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) was, at the time of the decision to grant the visa:
 - (i) fully funded; or
 - (ii) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, were to be met by:
 - (A) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (B) an organisation specified by the Minister in a Gazette Notice for this paragraph.

575.333 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

575.334 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

575.4 Circumstances applicable to grant

575.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.

575.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

575.5 When visa is in effect

- 575.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
- (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
 - (b) otherwise — until a date specified by the Minister.

575.6 Conditions

- 575.611 If the applicant satisfies the primary criteria:
- (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8532 and 8533; and
 - (d) if the applicant is a citizen of Iran, condition 8204; and
 - (e) subject to clause 575.612, any 1 or more of conditions 8303, 8523 and 8535 may be imposed.
- 575.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 575.613 (1) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3, 4 or 5; and
 - (c) is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less; and
 - (d) is not an applicant to whom subclause (2) applies; condition 8534.
- (2) If the applicant:
- (a) satisfies the primary criteria; and
 - (b) is subject to assessment level 3; and
 - (c) gives to the Minister the evidence mentioned in subclause (3);
- condition 8534 may be imposed.

- (3) For subclause (2), the evidence is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the period of 12 months after the full period:
 - (i) living costs, within the meaning of subclause 5A104 (1);
 - (ii) school costs, within the meaning of subclause 5A104 (2); and
 - (b) evidence that the applicant has a further \$12 000 in funds from an acceptable source; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (4) For paragraphs (3) (a) and (b), the funds must be in addition to the funds for which the applicant provided evidence for subclause 5A708 (1).
- (5) If the applicant satisfies the secondary criteria as a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 575 visa that is subject to condition 8534, condition 8534.
- (6) In this clause:
funds from an acceptable source has the meaning given by subclause 5A708 (2).
- 575.614 (1) If the applicant (the *primary applicant*) is subject to assessment level 1 or 2 and is seeking to undertake a course of study that is, or courses of study that are together, of 10 months duration or less, condition 8534 may be imposed.
- (2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.
- 575.615 (1) If the applicant (the *primary applicant*) is seeking to undertake a course of study that is, or courses of study that are together, of more than 10 months duration, condition 8534 may be imposed.

(2) If the applicant satisfies the secondary criteria as a member of the family unit of the primary applicant, condition 8534 may be imposed.

575.616 (1) If the applicant satisfies the secondary criteria:

(a) in all cases:

(i) conditions 8501 and 8516; and

(ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and

(b) if the applicant is a citizen of Iran, condition 8204; and

(c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and

(d) any 1 or more of conditions 8303, 8522 and 8535 may be imposed.

(2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:

(a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or

(b) the applicant was the holder of a Subclass 563 visa; or

(c) the applicant was:

(i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and

(ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 or 563 visa that was subject to condition 8101.

575.617 If the applicant satisfies the secondary criteria, condition 8104.

575.7 Way of giving evidence

575.711 No evidence need be given.

575.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 576 AusAID or Defence Sector

576.1 Interpretation

576.111 In this Part:

course of study means a full-time course of study or training under a scholarship scheme or training program approved by the AusAID Minister or the Defence Minister.

travel costs has the same meaning as in Schedule 5A.

Note foreign country is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

576.2 Primary criteria

Note 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.

576.21 Criteria to be satisfied at time of application

576.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), or (4).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);

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- (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);
 - (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder, as the spouse, de facto partner or a dependent relative of a diplomatic or consular representative of a foreign country, of a Diplomatic (Temporary) (Class TF) visa; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a student visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or

- (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
- (d) the applicant satisfies Schedule 3 criterion 3005.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 562 or 576 visa that is subject to condition 8101; and
 - (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant gives to the Minister evidence that the applicant has commenced a course of study or training for which the visa held was granted; and
 - (d) the applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.

576.22 Criteria to be satisfied at time of decision

- 576.221
- (1) Unless, at the time of application, the applicant met the requirements of subclause 576.211 (4), the applicant satisfies the criteria in clauses 576.222 to 576.232.
 - (2) If, at the time of application, the applicant met the requirements of subclause 576.211 (4):
 - (a) the applicant continues to meet the requirements of paragraph 576.211 (4) (a); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine student;

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- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 576.223 (ba); or
- (ii) the applicant satisfies the criteria in clauses 576.222 to 576.232.
- 576.222 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student because the applicant meets the requirements of subclause (2).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant gives to the Minister evidence, in accordance with the requirements mentioned in Schedule 5A for Subclass 576 and the assessment level to which the applicant is subject, in relation to:
- (i) the applicant's English language proficiency for the purposes of each course of study that the applicant proposes to undertake; and
- (ii) the financial capacity of the applicant to undertake each of those courses of study without contravening any condition of the visa relating to work; and
- (iii) other requirements under Schedule 5A; and
- (b) the Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student, having regard to:
- (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
- (ii) any other relevant matter.
- 576.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
- (b) if the applicant seeks to stay in Australia for 12 months or more, satisfies public interest criterion 4010; and
- (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and

- (c) if the applicant is applying outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 576.224 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 576.226 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:
- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.
- 576.227 If:
- (a) the application was made in Australia; and
- (b) either:
- (i) the applicant is the holder of a student visa that is subject to condition 8535; or
- (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;
- the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant undertaking a course of study.
- 576.228 The applicant holds a passport of a kind specified in a Gazette Notice made under regulation 1.40.
- 576.229 The applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.
- 576.230 If the applicant is subject to assessment level 2, the Minister is satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

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- 576.231 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 576.232 If the applicant is subject to assessment level 5, the aggregate of the period, or periods, of ELICOS that the applicant is seeking to undertake, together with the period, or periods, of any previous ELICOS undertaken as the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa, or any subsequent bridging visa, does not exceed 40 weeks.
- 576.233 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

576.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

576.31 Criteria to be satisfied at time of application

- 576.311 If the application is made outside Australia, the applicant is a member of the family unit of:
- (a) a person who is the holder of a Subclass 560 or 562 visa; or
 - (b) a person who satisfies, or has satisfied, the primary criteria in Subdivision 576.21.
- 576.312 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) An applicant meets the requirements of this subclause if the applicant is the holder of:
- (a) a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);

- (vii) Family Relationship (Temporary) (Class TL);
- (viii) Interdependency (Temporary) (Class TM);
- (ix) Long Stay (Visitor) (Class TN);
- (ixa) Maritime Crew (Temporary) (Class ZM);
- (x) Medical Practitioner (Temporary) (Class UE);
- (xi) Retirement (Temporary) (Class TQ);
- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiii) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) a special purpose visa; or
- (d) a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive).
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 576.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's visa ceased to be in effect.
- (4) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 560, 563 or 576 visa that is subject to condition 8101 or 8104; and

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- (b) the application was made on form 157P or 157P (Internet); and
 - (c) the applicant is a member of the family unit of a person who is the holder of a Subclass 560, 562 or 576 visa; and
 - (d) the applicant gives to the Minister evidence that the holder of the Subclass 560, 562 or 576 visa mentioned in paragraph (c) has commenced a course of study.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant does not hold a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who holds a Subclass 560, 562 or 576 student visa, having satisfied the primary criteria for that visa.
- 576.314 If the applicant is not included in the application under subregulation 2.07AF (3), or the information under subregulation 2.07AF (4), as a member of the family unit of the primary applicant mentioned in those subregulations, the applicant gives to the Minister evidence that the applicant became such a member of the family unit after the decision to grant the Subclass 576 visa to the primary applicant was made.

576.32 Criteria to be satisfied at time of decision

- 576.321 (1) Unless, at the time of application, the applicant met the requirements of subclause 576.312 (4), the applicant satisfies the criteria in clauses 576.322 to 576.333.
- (2) If, at the time of application, the applicant met the requirements of subclause 576.312 (4):
- (a) the applicant continues to meet the requirements of paragraphs 576.312 (4) (a) and (c); and
 - (b) either:
 - (i) both of the following:
 - (A) the Minister has no reason to believe that the applicant is not a genuine applicant for entry and stay as a member of the family unit of the primary person mentioned in clause 576.322;

- (B) if the applicant had turned 18 at the time of application, the applicant satisfies paragraph 576.323 (b); or
- (ii) the applicant satisfies the criteria in clauses 576.322 to 576.333.
- 576.322 The applicant is a member of the family unit of a person (the *primary person*) who:
- (a) is the holder of a Subclass 560, 562 or 576 visa; and
 - (b) had the support of the AusAID Minister or the Defence Minister for the grant of that visa.
- 576.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 576.324 If the applicant seeks to stay in Australia for 12 months or more, the applicant satisfies public interest criterion 4010.
- 576.325 If the application is made outside Australia and the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 576.327 The applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 576.328 If:
- (a) the applicant is a school-age dependant of the primary person mentioned in clause 576.322; and
 - (b) the period of stay proposed in the application is more than 3 months;
- the applicant gives to the Minister evidence that adequate arrangements have been made for the education of the applicant in Australia.
- 576.329 If the application was made outside Australia and made separately from that of the primary person mentioned in clause 576.322, the primary person is, or is expected soon to be, in Australia.

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- 576.330 The Minister is satisfied that there are sufficient funds to meet the travel costs for the applicant:
- (a) if the applicant is not in Australia — to Australia, and from Australia; or
 - (b) if the applicant is in Australia — from Australia.
- 576.331 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 576.332 The applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.
- 576.333 (1) If:
- (a) the applicant is a member of the family unit of a person (the *primary person*) who is the holder of a Subclass 576 visa, granted on or after 1 December 2003 on the basis of satisfying the primary criteria in Subdivision 576.21; and
 - (b) the primary person was subject to assessment level 2 at the time of the decision to grant the visa; and
 - (c) the applicant was not included in the application for a student visa made by the primary person;
- the applicant must give evidence in accordance with Schedule 5B for assessment level 2.
- (2) If the applicant meets subclause (1), the Minister must also be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- 576.334 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 576.335 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

576.4 Circumstances applicable to grant

- 576.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 576.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

576.5 When visa is in effect

- 576.511 Temporary visa permitting the holder to travel to, enter and remain in Australia:
 - (a) if the application is made on form 157P or 157P (Internet) — until the date on which the visa held by the applicant at the time of application would have ceased to be in effect; and
 - (b) otherwise — until a date specified by the Minister.

576.6 Conditions

- 576.611 If the applicant satisfies the primary criteria:
 - (a) in all cases, conditions 8105, 8202, 8501, 8516, 8517, 8533 and 8535; and
 - (c) if the applicant is a citizen of Iran, condition 8203; and
 - (d) subject to clause 576.612, 1 or both of conditions 8303 and 8523 may be imposed.
- 576.612 If, at the time of application, the applicant was the holder of a Subclass 560, 562, 570, 571, 572, 573, 574, 575 or 576 visa that was subject to condition 8523 and the applicant satisfies the primary criteria, condition 8523.
- 576.613 (1) If the applicant satisfies the secondary criteria:
 - (a) in all cases:
 - (i) conditions 8501 and 8516; and
 - (ii) condition 8518 (except if the visa is granted to an applicant who has turned 18); and
 - (b) if the applicant is a citizen of Iran, condition 8204; and

- (c) subject to subclause (2), condition 8201 must be imposed if the applicant has turned 18; and
 - (d) any 1 or more of conditions 8303, 8522, 8534 and 8535 may be imposed.
- (2) Condition 8201 is not imposed on a student visa granted to an applicant who has turned 18 if, at the time of the application:
- (a) the applicant was the holder of a Subclass 560 visa as a person who satisfied the secondary criteria in Subdivisions 560.31 and 560.32; or
 - (b) the applicant was the holder of a Subclass 563 visa; or
 - (c) the applicant was:
 - (i) the holder of a Subclass 570, 571, 572, 573, 574, 575 or 576 visa as a person who satisfied the secondary criteria for the subclass; and
 - (ii) immediately before being granted the Subclass 570, 571, 572, 573, 574, 575 or 576 visa, the holder of a Subclass 560 (as a person who satisfied the secondary criteria for the subclass) or 563 visa that was subject to condition 8101.

576.614 If the applicant satisfies the secondary criteria, condition 8104.

576.7 Way of giving evidence

576.711 No evidence need be given.

576.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 580 Student Guardian

580.1 Interpretation

580.111 In this Part:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;

- (c) the nominating student;
- (d) the nominating student's spouse or de facto partner;
- (e) a parent of the nominating student;
- (f) a grandparent of the nominating student;
- (g) a brother or sister of the nominating student;
- (h) an aunt or uncle of the nominating student, if the aunt or uncle is usually resident in Australia and is:
 - (i) an Australian citizen; or
 - (ii) an Australian permanent resident; or
 - (iii) an eligible New Zealand citizen.

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support that it proposes to provide.

family applicant, for an applicant, means a member of the applicant's family unit who is a visa applicant seeking to satisfy secondary criteria in relation to the applicant.

financial institution means a body corporate that, as part of its normal activities:

- (a) takes money on deposit and makes advances of money; and
- (b) does so under a regulatory regime, governed by the central bank (or its equivalent) of the country in which it operates, that the Minister is satisfied provides effective prudential assurance.

first 12 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and

- (b) ends on the earlier of the following:
 - (i) the day 12 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 24 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 24 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 36 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 36 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

full period, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or

- (ii) if the application is made in Australia — on the day that the visa is expected to be granted to the applicant; and
- (b) ends on the last day of the applicant's proposed stay in Australia.

living costs, for an applicant for a visa, means an amount worked out as follows:

- (a) for the applicant — \$12 000 per year (the **basic rate**); and
- (b) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and
- (c) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child.

money deposit means a money deposit with a financial institution.

nominating student, for an applicant, means a person who:

- (a) nominates the applicant on form 157N; and
- (b) at the time of decision for the applicant, holds a student visa that was granted on the basis that the person met the primary criteria for the grant of the student visa; and
- (c) if, at the time of decision for an applicant, there is more than 1 person who meets the requirements of paragraphs (a) and (b) — is the person mentioned in a written communication given to the Minister by the applicant in accordance with Division 2.3.

scholarship means a scholarship that:

- (a) is awarded to a student by his or her education provider or proposed education provider; and
- (b) is awarded on the basis of merit and an open selection process; and
- (c) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
- (d) is awarded to the greater of:
 - (i) not more than 10% of overseas students in a course intake; and

- (ii) not more than 3 overseas students in a course intake.

travel costs, for an applicant, means the sum of costs for each of the applicant and any family applicant:

- (a) if the applicant or family applicant is not in Australia when the application is made — of travelling to Australia; and
- (b) of returning to the applicant's home country at the end of his or her stay.

580.112 In subclause 580.226 (3):

funds from an acceptable source means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the home country of the applicant or of the nominating student;
- (d) a scholarship awarded to the nominating student by his or her education provider or proposed education provider;
- (e) financial support from:
 - (i) the Commonwealth Government, or the government of a State or Territory; or
 - (ii) the government of a foreign country; or
 - (iii) unless the nominating student holds a Subclass 570 (Independent ELICOS Sector) visa — a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the nominating student in a role in relation to which the nominating student's principal course is directly relevant; or
 - (iv) a multilateral agency; or

- (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
- (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (vii) an acceptable non-profit organisation.

580.113 In subclause 580.226 (4):

funds from an acceptable source means one or more of the following:

- (a) a money deposit that the applicant or an individual who is providing support to the applicant has held for at least the 3 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, the applicant or of an individual who is providing support to the applicant;
- (c) a loan from the government of the home country of the applicant or of the nominating student;
- (d) a scholarship awarded to the nominating student by his or her education provider or proposed education provider;
- (e) financial support from:
 - (i) the Commonwealth Government, or the government of a State or Territory; or
 - (ii) the government of a foreign country; or
 - (iii) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the nominating student in a role in relation to which the nominating student's principal course is directly relevant; or
 - (iv) a multilateral agency; or
 - (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or

(vii) an acceptable non-profit organisation.

580.114 In subclause 580.226 (5):

funds from an acceptable source does not include the value of an item of property.

Note *Assessment level, AusAID Minister, AusAID recipient, AusAID student, Australian permanent resident, custody, Defence Minister, education provider, eligible New Zealand citizen, home country* and *relative* are defined in regulation 1.03. *Member of the family unit* is defined in regulation 1.12.

580.2 Primary criteria

Note 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.

580.21 Criteria to be satisfied at time of application

580.211 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2) or (3).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);

- (xii) Short Stay (Visitor) (Class TR);
- (xiii) Student (Temporary) (Class TU);
- (xiiia) Superyacht Crew (Temporary) (Class UW);
- (xiv) Supported Dependant (Temporary) (Class TW);
- (xv) Temporary Business Entry (Class UC);
- (xva) Tourist (Class TR);
- (xvb) Visitor (Class TV);
- (xvi) Working Holiday (Temporary) (Class TZ); or
- (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
- (c) the holder of a special purpose visa; or
- (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iii) Subclass 497 (Graduate Skilled); or
- (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the last substantive visa held by the applicant was:
 - (i) a Subclass 580 (Student Guardian) visa; or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 303 (Emergency (Temporary Visa Applicant)) visa; or
 - (iv) a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; and
 - (c) the application is made within 28 days (or within such period specified by Gazette Notice) after:
 - (i) the day when that last substantive visa ceased to be in effect; or

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- (ii) if that last substantive visa was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision — the later of:
 - (A) the day when that last substantive visa ceased to be in effect; and
 - (B) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision; and
 - (d) the applicant satisfies Schedule 3 criterion 3005.

580.22 Criteria to be satisfied at time of decision

- 580.222
- (1) The applicant meets the requirements of subclause (2), (3) or (4).
 - (2) The applicant meets the requirements of this subclause if:
 - (a) the nominating student has not turned 18; and
 - (b) the applicant is able to:
 - (i) provide appropriate accommodation and support for the nominating student; and
 - (ii) provide for the general welfare of the nominating student; and
 - (c) the applicant is either:
 - (i) a parent of the nominating student or a person who has custody of the nominating student; or
 - (ii) a person who:
 - (A) is a relative of the nominating student; and
 - (B) has turned 21; and
 - (d) if subparagraph (c) (ii) applies — the nomination of the applicant is supported in writing by:
 - (i) a parent of the nominating student; or
 - (ii) a person who has custody of the nominating student.

- (3) The applicant meets the requirements of this subclause if:
 - (a) the nominating student has turned 18; and
 - (b) the Minister is satisfied that there are exceptional reasons why the nominating student needs the applicant to reside with the nominating student in Australia; and
 - (c) the applicant is able to:
 - (i) provide appropriate accommodation and support for the nominating student; and
 - (ii) provide for the general welfare of the nominating student; and
 - (d) the applicant is a person who:
 - (i) is a relative of the nominating student; and
 - (ii) has turned 21.
 - (4) An applicant meets the requirements of this subclause if:
 - (a) the Minister is satisfied that the grant of the visa to the applicant will significantly benefit the relationship between the government of Australia and the government of a foreign country; and
 - (b) the applicant has turned 21; and
 - (c) if the nominating student has not turned 18 — the nomination of the applicant is supported in writing by:
 - (i) a parent of the nominating student; or
 - (ii) a person who has custody of the nominating student.
- 580.223 (1) The applicant meets the requirements of subclauses (2), (3) and (4).
- (2) The applicant meets the requirements of this subclause if:
 - (a) the Minister is satisfied that the applicant has a genuine intention to reside in Australia with the nominating student; and
 - (b) the Minister is satisfied that the nominating student has a genuine intention to reside in Australia with the applicant; and

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- (c) the Minister is satisfied that, unless the applicant meets the requirements of subclause 580.222 (4), the nominating student does not intend to reside in Australia with:
- (i) a holder of a Subclass 580 visa other than the applicant; or
 - (ii) a parent of the nominating student, or a person who has custody of the nominating student, other than the applicant; and

Note If the applicant meets the requirements of subclause 580.222 (4), the nominating student may intend to reside with 1 or more holders of a Subclass 580 visa in addition to the applicant.

- (d) unless:
- (i) the applicant satisfies subclause 580.222 (4); or
 - (ii) the Minister has, under subclause (2A), waived the requirement in this paragraph;
- each member of the family unit of the applicant has turned 6; and
- (e) the Minister is satisfied that the applicant has made appropriate arrangements, for the period of the applicant's proposed stay in Australia, for the accommodation, support and general welfare of each member of the applicant's family unit:
- (i) who has not turned 18; and
 - (ii) who does not hold a student visa.

(2A) The Minister may waive the requirement under paragraph (2) (d) if:

- (a) either:
- (i) the applicant is a person designated under regulation 2.07AO; or
 - (ii) each child under 6 would be subject to assessment level 1 or 2 if the child were an applicant for a Subclass 571 (Schools Sector) visa; and
- (b) the Minister is satisfied that there are compelling and compassionate reasons to do so.

- (3) The applicant meets the requirements of this subclause if the applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014; and
 - (b) if the applicant seeks to reside in Australia for 12 months or more, satisfies public interest criterion 4010; and
 - (ba) if the applicant had turned 18 at the time of application, satisfies public interest criterion 4019; and
 - (c) if the application was made outside Australia and the applicant has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (4) The applicant meets the requirements of this subclause if the applicant gives to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 580.224 If the application was made in Australia, the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.
- 580.225 If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister or the Defence Minister for the grant of the visa.
- 580.226 (1) The Minister is satisfied that the applicant is a genuine applicant for entry and stay as a student guardian:
- (a) because:
 - (i) for an applicant who is not a person designated under regulation 2.07AO — the applicant gives to the Minister evidence relating to the applicant's financial capacity in accordance with subclause (2), (3), (4) or (5); or
 - (ii) for an applicant who is a person designated under regulation 2.07AO — the Minister is satisfied that the applicant has access to sufficient funds to meet:
 - (A) the costs and expenses required to support the applicant during the proposed stay in Australia; and

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- (B) the costs and expenses required to support each family applicant; and
- (b) having regard to:
- (i) the stated intention of the applicant to comply with any conditions subject to which the visa is granted; and
 - (ii) any other relevant matter.
- (2) If the nominating student was, at the time his or her visa was granted, subject to assessment level 5, the evidence for paragraph (1) (a) is evidence that:
- (a) the applicant has funds that are sufficient to meet living costs for the full period; and
 - (b) the applicant has funds that are sufficient to meet travel costs; and
 - (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application; and
 - (d) the applicant's regular income before the date of the application was sufficient to accumulate the funds.
- (3) If the nominating student was, at the time his or her visa was granted, subject to assessment level 4, the evidence for paragraph (1) (a) is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 36 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (d) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period.

- (4) If the nominating student was, at the time his or her visa was granted, subject to assessment level 3, the evidence for paragraph (1) (a) is:
- (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 24 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (d) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period.
- (5) If the nominating student was, at the time his or her visa was granted, subject to assessment level 1 or 2:
- (a) the evidence for paragraph (1) (a) is:
 - (i) evidence that the applicant has funds from an acceptable source that are sufficient to meet living costs for the first 12 months; and
 - (ii) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (iii) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet living costs for the remainder of the full period; and
 - (b) the Minister must be satisfied that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

580.227 If:

- (a) the application was made in Australia; and
- (b) the student who nominated the applicant is subject to assessment level 2, 3, 4 or 5 in respect of the student visa held by that student; and

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- (c) at the time of application, the applicant met the requirements of clause 580.211:
- (i) as the holder of a visa of one of the following classes:
 - (A) Border (Temporary) (Class TA);
 - (B) Business (Temporary) (Class TB);
 - (C) Cultural/Social (Temporary) (Class TE);
 - (D) Educational (Temporary) (Class TH);
 - (E) Electronic Travel Authority (Class UD);
 - (F) Expatriate (Temporary) (Class TJ);
 - (G) Family Relationship (Temporary) (Class TL);
 - (H) Interdependency (Temporary) (Class TM);
 - (I) Long Stay (Visitor) (Class TN);
 - (IA) Maritime Crew (Temporary) (Class ZM);
 - (J) Medical Practitioner (Temporary) (Class UE);
 - (K) Retirement (Temporary) (Class TQ);
 - (L) Short Stay (Visitor) (Class TR);
 - (LA) Superyacht Crew (Temporary) (Class UW);
 - (M) Supported Dependant (Temporary) (Class TW);
 - (N) Temporary Business Entry (Class UC);
 - (NA) Tourist (Class TR);
 - (NB) Visitor (Class TV);
 - (O) Working Holiday (Temporary) (Class TZ); or
 - (ii) as the holder of a special purpose visa; or
 - (iii) as the holder of a visa of one of the following subclasses:
 - (A) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (B) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (C) Subclass 497 (Graduate Skilled); or
 - (iv) as a person:
 - (A) who was not the holder of a substantive visa; and

(B) who, immediately before ceasing to hold a substantive visa, was the holder of a visa mentioned in subparagraph (i), (ii) or (iii);

the applicant establishes exceptional reasons for the grant of a Subclass 580 visa.

580.228 If the application was made in Australia and, at the time of application, the applicant was in Australia as the spouse, de facto partner or dependent relative of a diplomatic or consular representative of a country other than Australia:

- (a) that representative has completed, or is about to complete, an official posting in Australia; and
- (b) the Foreign Minister recommends the grant of the visa.

580.229 If:

- (a) the application was made in Australia; and
- (b) either:
 - (i) the applicant is the holder of a student visa that is subject to condition 8535; or
 - (ii) the last substantive visa held by the applicant was a student visa that was subject to condition 8535; and
- (c) the applicant is, or was, provided financial support by the Commonwealth or the government of a foreign country in relation to the student visa;

the applicant gives to the Minister evidence, in writing, that the Commonwealth or the government of the foreign country, as the case requires, does not oppose the applicant remaining in Australia as a student guardian.

580.230 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

580.3 Secondary criteria

Note Requirements to be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

580.31 Criteria to be satisfied at time of application

580.310 If the application is made outside Australia, the applicant is a member of the family unit of:

- (a) a person who is the holder of a Subclass 580 visa; or
- (b) a person who satisfies the primary criteria in Subdivision 580.21.

580.311 (1) If the application is made in Australia, the applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is:

- (a) the holder of a visa of one of the following classes:
 - (i) Border (Temporary) (Class TA);
 - (ii) Business (Temporary) (Class TB);
 - (iii) Cultural/Social (Temporary) (Class TE);
 - (iv) Educational (Temporary) (Class TH);
 - (v) Electronic Travel Authority (Class UD);
 - (vi) Expatriate (Temporary) (Class TJ);
 - (vii) Family Relationship (Temporary) (Class TL);
 - (viii) Interdependency (Temporary) (Class TM);
 - (ix) Long Stay (Visitor) (Class TN);
 - (ixa) Maritime Crew (Temporary) (Class ZM);
 - (x) Medical Practitioner (Temporary) (Class UE);
 - (xi) Retirement (Temporary) (Class TQ);
 - (xii) Short Stay (Visitor) (Class TR);
 - (xiii) Student (Temporary) (Class TU);
 - (xiiia) Superyacht Crew (Temporary) (Class UW);
 - (xiv) Supported Dependant (Temporary) (Class TW);
 - (xv) Temporary Business Entry (Class UC);
 - (xva) Tourist (Class TR);
 - (xvb) Visitor (Class TV);

- (xvi) Working Holiday (Temporary) (Class TZ); or
 - (b) the holder of a Diplomatic (Temporary) (Class TF) visa granted to the holder as the spouse, de facto partner or a dependent relative, of a diplomatic or consular representative of a foreign country; or
 - (c) the holder of a special purpose visa; or
 - (d) the holder of a visa of one of the following subclasses:
 - (i) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (ii) Subclass 427 (Domestic Worker (Temporary) — Executive);
 - (iii) Subclass 497 (Graduate Skilled); or
 - (e) a person designated under regulation 2.07AO.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 580.211 (2).
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant is a member of the family unit of a person who meets the requirements of subclause 580.211 (3); and
 - (c) the applicant was a member of the family unit of the person at the time that person's last substantive visa ceased to be in effect.

580.32 Criteria to be satisfied at time of decision

- 580.321 The applicant meets the requirements of clauses 580.322, 580.323, 580.324, 580.325, 580.326 and 580.327.
- 580.322 The applicant has not turned 6.
- 580.323 The applicant is a member of the family unit of a person:
- (a) in relation to whom the Minister has, under subclause 580.223 (2A), waived the requirement in paragraph 580.223 (2) (d); and

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- (b) who has otherwise satisfied the primary criteria in Subdivision 580.22.
- 580.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013, 4014, 4017 and 4018.
- 580.325 If the application is in respect of a proposed stay in Australia of more than 12 months, the applicant also satisfies public interest criterion 4010.
- 580.326 If:
- (a) the application is made outside Australia; and
 - (b) the applicant has previously been in Australia;
- the applicant satisfies special return criteria 5001 and 5002.
- 580.327 The applicant produces to the Minister evidence of adequate arrangements in Australia for health insurance during the period of the applicant's intended stay in Australia.
- 580.328 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

580.4 Circumstances applicable to grant

- 580.411 If the application is made outside Australia, the applicant must be outside Australia at the time of grant.
- 580.412 If the application is made in Australia, the applicant must be in Australia at the time of grant.

580.5 When visa is in effect

- 580.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

580.6 Conditions

580.611 (1) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222 (2) or (3) — conditions 8101, 8201, 8501, 8516, 8534, 8537 and 8538.

(2) In the case of a visa granted to an applicant who meets the requirements of subclause 580.222 (4) — conditions 8106, 8201, 8501, 8516, 8534, 8537 and 8538.

580.612 In the case of a visa granted to an applicant who meets the requirements of clause 580.321 — conditions 8101, 8501, 8502 and 8516.

580.7 Way of giving evidence

580.711 No evidence need be given.

580.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 651 eVisitor

651.1 Interpretation

Note *eVisitor eligible passport* is defined in regulation 1.11C. There are no interpretation provisions specific to this Part.

651.2 Primary Criteria

Note All applicants must satisfy the primary criteria.

651.21 [No criteria to be satisfied at time of application]

651.22 Criteria to be satisfied at time of decision

651.221 The applicant holds an eVisitor eligible passport.

651.222 The applicant satisfies the Minister that the applicant has a genuine intention to visit Australia temporarily:

- (a) as a tourist; or
- (b) for business purposes.

651.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

651.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

651.3 Secondary Criteria: Nil.

Note All applicants must satisfy the primary criteria.

651.4 Circumstances applicable to grant

651.411 The applicant must be outside Australia at the time of the grant.

651.5 When visa is in effect

651.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia on multiple occasions within 12 months from the date of the grant of the visa; and
- (b) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

651.6 Conditions

651.611 Conditions 8201, 8527 and 8528 must be imposed.

651.612 If the applicant intends to visit Australia temporarily as a tourist, condition 8101 must be imposed.

651.613 If the applicant intends to visit Australia temporarily for business purposes, condition 8112 must be imposed.

651.7 Way of giving evidence

651.711 No evidence need be given.

Subclass 675 Medical Treatment (Short Stay)

675.1 Interpretation

Note No interpretation provisions specific to this Part.

675.2 Primary criteria

Note All applicants must satisfy the primary criteria.

675.21 Criteria to be satisfied at time of application

675.211 The applicant seeks to visit Australia, or remain in Australia as a visitor, for the purposes of medical treatment or for related purposes.

675.212 (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).

(2) An applicant meets the requirements of this subclause if the applicant:

- (a) seeks to obtain medical treatment (including consultation), other than treatment for the purposes of surrogate motherhood, in Australia; and
- (b) satisfies the Minister that arrangements have been concluded to carry out the treatment; and
- (e) satisfies the Minister that, if the treatment is an organ transplant, the donor of the relevant organ is accompanying the applicant to Australia or that all requisite arrangements to effect the donation of the organ have been concluded in Australia.

(3) An applicant meets the requirements of this subclause if the applicant:

- (a) seeks to donate an organ for transplant in Australia; and
- (b) satisfies the Minister that, if the donee is an applicant referred to in subclause (2), the donee meets the requirements of that subclause.

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- (4) The applicant meets the requirements of this subclause if the applicant:
- (a) seeks to give emotional and other support to an applicant described in subclause (2) or (3); and
 - (b) satisfies the Minister that the person to whom the applicant is to provide support meets the requirements of subclause (2) or (3), as the case requires.
- (5) The applicant meets the requirements of this subclause if the applicant is a citizen of Papua New Guinea who:
- (a) resides in the Western Province of Papua New Guinea; and
 - (b) is approved by the Queensland Department of Health for medical evacuation to a hospital in Queensland.
- 675.213 The Minister is satisfied that no Australian citizen or Australian permanent resident would be disadvantaged in obtaining medical treatment or consultation if the visa was granted.
- 675.214 The applicant has adequate funds for personal support during the period of the visit.
- 675.215 If the application is made outside Australia, the period of stay in Australia proposed in the application does not exceed 3 months.
- 675.216 If the application is made in Australia:
- (a) the applicant:
 - (i) is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) does not hold a substantive visa and:
 - (A) immediately before ceasing to hold a substantive visa, was the holder of a substantive temporary visa other than a Subclass 426 visa; and
 - (B) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
 - (c) the applicant has complied substantially with the conditions that apply or applied to the last of any

substantive visas held by the applicant, and to any subsequent bridging visa; and

- (d) the grant of the visa would not result in the applicant being authorised to remain in Australia for more than 3 consecutive months as the holder of 1 or more visitor visas.

675.22 Criteria to be satisfied at time of decision

675.221 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if:

- (a) the applicant continues to satisfy the criteria in clauses 675.211 to 675.214; and
- (b) if the application is made outside Australia, the applicant continues to satisfy the criterion in clause 675.215; and
- (c) the applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine; and
- (d) the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4012, 4013 and 4014; and
- (e) if the applicant is applying outside Australia and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002; and
- (f) if the applicant is a person described in subclause 675.212 (2):
 - (i) the applicant satisfies the Minister that the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;
 - (ii) the applicant satisfies the Minister that arrangements have been concluded for the payment of all costs related to the treatment referred to in paragraph 675.212 (2) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and

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- (iii) the applicant satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
 - (g) if the applicant is a person described in subclause 675.212 (3), the applicant satisfies the Minister that:
 - (i) the applicant is free from tuberculosis; and
 - (ii) the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
 - (iii) the applicant is not a person who has a disease or condition (other than a disease or condition normally related to the organ transplant for which the applicant proposes coming to Australia) that, during the applicant's proposed period of stay in Australia, would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care or community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services; and
 - (iv) arrangements have been concluded for the payment of all costs related to the organ transplant referred to in paragraph 675.212 (3) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
 - (v) except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
 - (h) if the applicant is a person described in subclause 675.212 (4), the applicant:
 - (i) satisfies public interest criterion 4005; and

- (ii) satisfies the Minister that arrangements have been concluded for the payment of all costs related to procedures to be undergone by the person to whom the applicant seeks to provide support, including the expenses of the applicant's stay in Australia; and
 - (iii) satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
- (j) if the application is made in Australia:
 - (i) the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training; and
 - (ii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- (3) An applicant meets the requirements of this subclause if the applicant is in Australia and:
 - (a) satisfies the criteria in paragraph (2) (c) and subparagraph (2) (j) (ii); and
 - (b) has compelling personal reasons for the grant of the visa; and
 - (c) satisfies public interest criteria 4005 (except paragraph (c) of that criterion) and 4012.
- (4) An applicant meets the requirements of this subclause if:
 - (a) he or she is in Australia; and
 - (b) he or she is suffering financial hardship as a result of changes in his or her circumstances after entering Australia; and
 - (c) he or she, or a member of his or her immediate family, is likely to become a charge on public funds in Australia; and

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- (d) for reasons beyond his or her control, he or she, or a member of his or her immediate family, cannot leave Australia; and
 - (e) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
 - (f) he or she satisfies public interest criteria 4005 and 4012; and
 - (g) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and
 - (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 675.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 675.223 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 675.224 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

675.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

675.4 Circumstances applicable to grant

- 675.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.
- 675.412 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

675.5 When visa is in effect

- 675.511 If the visa is granted outside Australia — temporary visa permitting the holder:
- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia:
 - (i) for a period (not longer than 3 months after the date of each entry) specified by the Minister for the purpose; or
 - (ii) until a date (not later than 3 months after the date of each entry) specified by the Minister for the purpose.
- 675.512 (1) In this clause:
date of latest entry, in relation to the holder of a visa, is the date on which he or she last entered Australia before the grant of the visa.
- (2) If the visa is granted in Australia — temporary visa permitting the holder:
- (a) to remain in Australia:
 - (i) for a period (not longer than 3 months after the date of latest entry) specified by the Minister for the purpose; or
 - (ii) until a date (not longer than 3 months after the date of latest entry) specified by the Minister for the purpose; and
 - (b) if the holder leaves Australia:
 - (i) to travel to and enter Australia on 1 or more occasions until a date specified by the Minister for the purpose; and

(ii) to remain in Australia:

- (A) for a period (not longer than 3 months after the date of each entry) specified by the Minister for the purpose; or
- (B) until a date (not later than 3 months after the date of each entry) specified by the Minister for the purpose.

675.6 Conditions

675.611 In the case of a visa granted to an applicant who meets the requirements of subclause 675.221 (4), conditions 8201 and 8205.

675.611A In any other case, conditions 8101, 8201 and 8205.

675.612 Condition 8503 may be imposed.

675.7 Way of giving evidence

675.711 No evidence need be given.

675.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 676 Tourist

676.1 Interpretation

Note oral application is defined in regulation 1.03. There are no interpretation provisions specific to this Part.

676.2 Primary criteria

Note All applicants must satisfy the primary criteria.

676.21 Criteria to be satisfied at time of application

676.211 The applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine.

- 676.212 The applicant seeks to visit Australia, or remain in Australia as a visitor:
- (a) for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or
 - (b) for a purpose other than a purpose related to business or medical treatment.
- 676.213 The applicant:
- (a) has adequate funds, or access to adequate funds, for personal support during the period of the visit; or
 - (b) meets the requirements of paragraph 676.221 (3) (f).
- 676.214 If the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1:
- (a) the applicant is a resident of an area in PRC specified in an instrument in writing for this paragraph; and
 - (b) the travel agent organising the applicant's tour to Australia is specified in an instrument in writing for subparagraph 1218 (1) (b) (iii); and
 - (c) the applicant provides a written statement of the details of the tour arrangements with his or her application.
- 676.215 If the applicant is in Australia:
- (a) the applicant:
 - (i) is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (ii) does not hold a substantive visa, and:
 - (A) immediately before ceasing to hold a substantive visa, was the holder of a substantive temporary visa other than a Subclass 426 visa; and
 - (B) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
 - (b) the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

676.22 Criteria to be satisfied at time of decision

- 676.221 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
 - (b) the applicant continues to satisfy the criteria in clauses 676.212 and 676.213; and
 - (c) either:
 - (i) if the applicant has not turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013, 4014, 4017 and 4018 are satisfied in relation to the applicant; or
 - (ii) if the applicant has turned 18, public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4013 and 4014 are satisfied in relation to the applicant; and
 - (d) if the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1:
 - (i) the criteria in clause 676.214 continue to be satisfied; and
 - (ii) the Minister has approved the details of the tour arrangements that were provided with the application; and
 - (e) if the applicant is in Australia:
 - (i) the applicant continues to satisfy the criteria in paragraph 676.215 (b); and
 - (ii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (iii) if the applicant is the holder of a student visa, or has been the holder of a student visa since last entering Australia — the Minister is satisfied that:
 - (A) the period of the applicant's stay in Australia is not sought for the purpose of commencing a registered course; and

- (B) the period of the applicant's stay in Australia is not sought for the purpose of continuing or completing a registered course in which the applicant is enrolled.
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the applicant is in Australia; and
 - (b) the application was not an oral application; and
 - (c) the application was not made on form 601E; and
 - (d) the applicant satisfies the Minister that the applicant's expressed intention to only visit Australia is genuine; and
 - (e) the applicant continues to satisfy the criteria in clause 676.212; and
 - (f) either:
 - (i) the applicant has compelling personal reasons for the grant of the visa; or
 - (ii) each of the following applies:
 - (A) the applicant is suffering financial hardship as a result of changes in the applicant's circumstances after entering Australia;
 - (B) the applicant, or a member of the applicant's immediate family, is likely to become a charge on public funds in Australia;
 - (C) for reasons beyond the applicant's control, the applicant, or a member of the applicant's immediate family, cannot leave Australia;
 - (D) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
 - (g) the applicant satisfies public interest criterion 4005; and
 - (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 676.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

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- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 676.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 676.224 If the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of 1 or more visitor visas or a Subclass 417 (Working Holiday) visa, the Minister is satisfied that exceptional circumstances exist for the grant of the visa.
- 676.225 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

676.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

676.4 Circumstances applicable to grant

- 676.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.
- 676.412 If the applicant is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1, the applicant must be in PRC at the time of grant.
- 676.413 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

676.5 When visa is in effect

- 676.511 If the visa was granted to an applicant outside Australia — temporary visa permitting the holder:
- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia for a period, or until a date, specified by the Minister for the purpose.
- 676.512 If the visa was granted to an applicant in Australia (not being on the basis of an oral application) — temporary visa permitting the holder:
- (a) to remain in Australia for a period, or until a date, specified by the Minister for the purpose; and
 - (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.
- 676.513 If the visa was granted to an applicant in Australia on the basis of an oral application — temporary visa permitting the holder:
- (a) to remain in Australia until the date (the *last stay date*) that is the earlier of:
 - (i) the date 6 months after the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to remain in Australia; and
 - (ii) the date 12 months from the date on which the holder last entered Australia; and
 - (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until the later of:
 - (A) the last stay date; and

- (B) the latest date on which the substantive visa held by the applicant at the time of making the oral application would have permitted the holder to enter Australia; and
- (ii) to remain in Australia, after each entry, for a period, or until a date, specified by the Minister for the purpose.

676.6 Conditions

- 676.611 In the case of a visa granted to an applicant who meets the requirements of sub-subparagraph 676.221 (3) (f) (ii) (D), that the applicant has compelling personal reasons to work in Australia:
- (a) conditions 8201 and 8205 must be imposed; and
 - (b) condition 8503 may be imposed.
- 676.612 In the case of a visa granted to an applicant who is a citizen of PRC mentioned in paragraph 1218 (1) (b) of Schedule 1, conditions 8101, 8207, 8503 and 8530 must be imposed.
- 676.613 In any other case:
- (a) conditions 8101, 8201 and 8205 must be imposed; and
 - (b) condition 8503 may be imposed.

676.7 Way of giving evidence

- 676.711 No evidence need be given.
- 676.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 679 Sponsored Family Visitor

679.1 Interpretation

Note *AusAID Minister, AusAID recipient, AusAID student, Australian permanent resident, relative* and *settled* are defined in regulation 1.03, *member of the family unit* is defined in regulation 1.12, and *sponsor* is defined in regulation 1.20. There are no interpretation provisions specific to this Part.

679.2 Primary criteria

Note All applicants must satisfy the primary criteria.

679.21 Criteria to be satisfied at time of application

- 679.211 The applicant seeks to visit Australia:
- (a) for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, de facto partner, child, brother or sister of the applicant; or
 - (b) for a purpose other than a purpose related to business or medical treatment.
- 679.212 The applicant has adequate funds, or access to adequate funds, for personal support during the period of the proposed visit to Australia.
- 679.213 The period of stay in Australia proposed in the application does not exceed 12 months.
- 679.214 The applicant is sponsored by:
- (a) a settled Australian citizen, or a settled Australian permanent resident, who:
 - (i) is:
 - (A) a relative of the applicant; or
 - (B) a relative of a person who:
 - (I) is a member of the family unit of the applicant; and
 - (II) is also an applicant for a Subclass 679 visa; and

- (ii) has turned 18; or
- (b) a settled Australian citizen, or a settled Australian permanent resident, who:
 - (i) is a member of the Commonwealth Parliament or a State Parliament; or
 - (ii) is a member of the Legislative Assembly of the Australian Capital Territory or the Northern Territory; or
 - (iii) holds the office of mayor; or
- (c) a Commonwealth government agency or instrumentality or a State or Territory government agency or instrumentality.

679.22 Criteria to be satisfied at time of decision

- 679.221 The applicant continues to satisfy the criteria in clauses 679.211 to 679.214.
- 679.222 The sponsorship referred to in clause 679.214 has been approved by the Minister and is still in force.
- 679.223 If:
- (a) the applicant's sponsor is a settled Australian citizen or a settled Australian permanent resident; and
 - (b) the applicant is not a relative of the sponsor, but is included in the sponsorship on the basis that the applicant is a member of the family unit of a person who:
 - (i) is an applicant for a Subclass 679 visa; and
 - (ii) is sponsored by the sponsor; and
 - (iii) is a relative of the sponsor —
- the person has been granted a Subclass 679 visa.
- 679.224 The applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine.
- 679.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 679.226 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
 - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 679.227 A security has been lodged, if asked for by an officer authorised under section 269 of the Act (which deals with security for compliance with the Act).
- 679.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4011, 4012, 4013 and 4014.
- 679.229 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 679.230 The Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 679.231 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

679.3 Secondary criteria: Nil

Note All applicants must satisfy the primary criteria.

679.4 Circumstances applicable to grant

- 679.411 The applicant must be outside Australia at the time of grant.

679.5 When visa is in effect

- 679.511 Temporary visa permitting the holder:
- (a) to travel to and enter Australia on 1 occasion until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia for a period (not longer than 12 months after the date of entry) specified by the Minister for the purpose.

679.6 Conditions

- 679.611 Conditions 8101, 8201, 8205, 8503 and 8531.

679.7 Way of giving evidence

- 679.711 No evidence need be given.
- 679.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 685 Medical Treatment (Long Stay)

685.1 Interpretation

Note No interpretation provisions specific to this Part.

685.2 Primary criteria

Note All applicants must satisfy the primary criteria.

685.21 Criteria to be satisfied at time of application

- 685.211 The applicant seeks to visit Australia, or remain in Australia as a visitor, for the purposes of medical treatment or for related purposes.
- 685.212 (1) The applicant meets the requirements of subclause (2), (3), (4), (5), (6) or (7).
- (2) An applicant meets the requirements of this subclause if the applicant:

- (a) seeks to obtain medical treatment (including consultation), other than treatment for the purposes of surrogate motherhood, in Australia; and
 - (b) satisfies the Minister that arrangements have been concluded to carry out the treatment; and
 - (e) satisfies the Minister that, if the treatment is an organ transplant, the donor of the relevant organ is accompanying the applicant to Australia or that all requisite arrangements to effect the donation of the organ have been concluded in Australia.
- (3) An applicant meets the requirements of this subclause if the applicant:
- (a) seeks to donate an organ for transplant in Australia; and
 - (b) satisfies the Minister that, if the donee is an applicant referred to in subclause (2), the donee meets the requirements of that subclause.
- (4) An applicant meets the requirements of this subclause if the applicant:
- (a) seeks to give emotional and other support to an applicant described in subclause (2) or (3); and
 - (b) satisfies the Minister that the person to whom the applicant is to provide support meets the requirements of subclause (2) or (3), as the case requires.
- (5) An applicant meets the requirements of this subclause if the applicant is a citizen of Papua New Guinea who:
- (a) resides in the Western Province of Papua New Guinea; and
 - (b) is approved by the Queensland Department of Health for medical evacuation to a hospital in Queensland.
- (6) An applicant meets the requirements of this subclause if he or she:
- (a) is in Australia; and
 - (b) has turned 50; and
 - (c) while in Australia, applied:
 - (i) for a permanent entry permit before 1 September 1994; or

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- (ia) for a section 47 temporary entry permit (within the meaning of the Migration (1993) Regulations); or
 - (ib) for an extended eligibility entry permit (within the meaning of the Migration (1989) Regulations); or
 - (ii) for a permanent visa on or after 1 September 1994; and
 - (d) has met all the criteria for the grant of that visa or entry permit other than public interest criteria related to health; and
 - (e) has been refused the visa or entry permit.
- (7) An applicant meets the requirements of this subclause if he or she is a member of the family unit of a person who meets the requirements of subclause (6).
- 685.213 Except in the case of an applicant referred to in subclause 685.212 (6) or (7), the Minister is satisfied that no Australian citizen or Australian permanent resident would be disadvantaged in obtaining medical treatment or consultation if the visa was granted.
- 685.214 Except in the case of an applicant referred to in subclause 685.212 (6) or (7), the applicant has adequate funds for personal support during the period of the visit.
- 685.215 If the application is made outside Australia, the period of stay in Australia proposed in the application exceeds 3 months.
- 685.216 (1) Subject to subclause (2), if the application is made in Australia:
- (a) the applicant is the holder of a substantive temporary visa other than a Subclass 426 (Domestic Worker (Temporary) — Diplomatic or Consular) visa; or
 - (b) the applicant does not hold a substantive visa and:
 - (i) immediately before ceasing to hold a substantive visa was the holder of a temporary visa other than a visa of Subclass 426; and
 - (ii) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and

(c) the applicant has complied substantially with the conditions that apply or applied to the last of any substantive visas held by the applicant, and to any subsequent bridging visa.

(2) Subclause (1) does not apply to an applicant referred to in subclause 685.212 (6) or (7).

685.22 Criteria to be satisfied at time of decision

685.221 (1) The applicant meets the requirements of subclause (2), (3), (4), (5) or (6).

(2) An applicant meets the requirements of this subclause if:

(a) the applicant continues to satisfy the criteria in clauses 685.211 to 685.214; and

(b) if the application is made outside Australia, the applicant continues to satisfy the criterion in clause 685.215; and

(c) the applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine; and

(d) the applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4012, 4013 and 4014; and

(e) if the applicant is applying outside Australia and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002; and

(f) if the applicant is a person described in subclause 685.212 (2):

(i) the applicant satisfies the Minister that the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community;

(ii) the applicant satisfies the Minister that arrangements have been concluded for the payment of all costs related to the treatment referred to in paragraph 685.212 (2) (a) and all other expenses of the applicant's stay in Australia,

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- including the expenses of any person accompanying the applicant; and
- (iii) the applicant satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
- (g) if the applicant is a person described in subclause 685.212 (3) the applicant satisfies the Minister that:
- (i) the applicant is free from tuberculosis; and
 - (ii) the applicant is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
 - (iii) the applicant is not a person who has a disease or condition (other than a disease or condition normally related to the organ transplant for which the applicant proposes coming to Australia) that, during the applicant's proposed period of stay in Australia, would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care or community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services; and
 - (iv) arrangements have been concluded for the payment of all costs related to the organ transplant referred to in paragraph 685.212 (3) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
 - (v) except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and

- (h) if the applicant is a person described in subclause 685.212 (4), the applicant:
 - (i) satisfies public interest criterion 4005; and
 - (ii) satisfies the Minister that arrangements have been concluded for the payment of all costs related to procedures to be undergone by the person to whom the applicant seeks to provide support, including the expenses of the applicant's stay in Australia; and
 - (iii) satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
 - (j) if the application is made in Australia:
 - (i) the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training; and
 - (ii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted; and
 - (iii) if the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of 1 or more visitor visas, the applicant must satisfy the Minister that compelling personal reasons or exceptional circumstances exist for the grant of the visa.
- (3) An applicant meets the requirements of this subclause if the applicant:
- (a) is in Australia and:
 - (b) satisfies the criteria in paragraph (2) (c) and subparagraph (2) (j) (ii); and

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- (c) has compelling personal reasons for the grant of the visa; and
 - (d) satisfies public interest criteria 4005 (except paragraph (c) of that criterion) and 4012.
- (4) An applicant meets the requirements of this subclause if he or she:
- (a) satisfies the criterion in subclause 685.212 (6); and
 - (b) is medically unfit to depart Australia, as evidenced by a written statement to that effect from the Commonwealth Medical Officer.
- (5) An applicant meets the requirements of this subclause if he or she:
- (a) is a member of the family unit of a person who satisfies the criterion in subclause 685.212 (6); and
 - (b) that person is unfit to depart Australia, as evidenced by a statement from the Commonwealth Medical Officer.
- (6) An applicant meets the requirements of this subclause if:
- (a) he or she is in Australia; and
 - (b) he or she is suffering financial hardship as a result of changes in his or her circumstances after entering Australia; and
 - (c) he or she, or a member of his or her immediate family, is likely to become a charge on public funds in Australia; and
 - (d) for reasons beyond his or her control, he or she, or a member of his or her immediate family, cannot leave Australia; and
 - (e) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
 - (f) he or she satisfies public interest criteria 4005 and 4012; and
 - (g) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and

- (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.
- 685.222 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.
- (2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:
- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- 685.223 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 685.224 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

685.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

685.4 Circumstances applicable to grant

- 685.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.
- 685.412 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

685.5 When visa is in effect

- 685.511 (1) If the visa is granted outside Australia — temporary visa permitting the holder:
- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (b) to remain in Australia:
 - (i) for a period specified by the Minister for the purpose; or
 - (ii) until a date specified by the Minister for the purpose.
- (2) If the visa is granted in Australia — temporary visa permitting the holder:
- (a) to remain in Australia:
 - (i) for a period specified by the Minister for the purpose; or
 - (ii) until a date specified by the Minister for the purpose; and
 - (b) if the holder leaves Australia during the visa period:
 - (i) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
 - (ii) to remain in Australia:
 - (A) for a period specified by the Minister for the purpose; or
 - (B) until a date specified by the Minister for the purpose.

685.6 Conditions

- 685.611 In the case of a visa granted to an applicant who meets the requirements of subclause 685.221 (6), conditions 8201 and 8205.
- 685.611A In any other case, conditions 8101, 8201 and 8205.
- 685.612 Condition 8503 may be imposed.

685.7 Way of giving evidence

685.711 No evidence need be given.

685.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 771 Transit

771.1 Interpretation

Note non-military ship and member of the crew are defined in regulation 1.03. No interpretation provisions specific to this Part.

771.2 Primary criteria

Note All applicants must satisfy the primary criteria.

771.21 Criteria to be satisfied at time of application

771.211 The applicant intends to remain in Australia no longer than 72 hours.

771.212 The applicant establishes that the applicant's principal purpose in entering Australia is:

- (a) to pass through Australia in transit to another country; or
- (b) to pass through Australia for the purpose of signing on to a non-military ship (other than a ship that is being imported into Australia) as a member of the crew.

771.213 The applicant produces tickets or documentation, or both, establishing that the applicant has concluded arrangements for travel to a destination outside Australia.

771.22 Criteria to be satisfied at time of decision

771.221 The applicant continues to satisfy the criteria in clauses 771.211 to 771.213.

771.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4013 and 4014.

771.223 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

771.224 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source;
and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

771.3 Secondary criteria: Nil.

Note All applicants must meet the primary criteria.

771.4 Circumstances applicable to grant

771.411 The applicant must be outside Australia when the visa is granted.

771.5 When visa is in effect

771.511 Temporary visa permitting the holder to travel to and enter Australia on 1 or more occasions and to remain in Australia no longer than 72 hours on each occasion.

771.6 Conditions

771.611 The holder must enter on or before the date specified by the Minister for the purpose.

771.612 Conditions 8101 and 8201.

771.613 Any 1 or more of conditions 8501, 8514 and 8516 may be imposed.

771.7 Way of giving evidence

771.711 No evidence need be given.

771.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 773 Border

773.1 Interpretation

Note *eligible New Zealand citizen* is defined in regulation 1.03. No interpretation provisions specific to this Part.

773.2 Primary criteria

Note All applicants must meet the primary criteria.

773.21 Criteria to be satisfied at time of application

773.211 If the applicant has entered Australia and seeks immigration clearance, the applicant satisfies the criteria in clauses 773.212 to 773.216.

773.212 The applicant does not seek to remain in Australia as a refugee or on humanitarian grounds.

773.213 (1) The applicant is:

- (a) the spouse or de facto partner of an Australian citizen, Australian permanent resident or an eligible New Zealand citizen; or
- (b) a person who is apparently eligible for a Return (Residence) visa or Resident Return (Temporary) visa; or
- (c) a person who has entered Australia with a visa that has been cancelled on presentation in immigration clearance because the person has breached a condition that the person is not to arrive in Australia before the arrival of another person specified in the visa; or
- (d) a person who:
 - (i) is a dependent child of:
 - (A) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (B) the holder of a visa of a class set out in subclause (2); or
 - (C) the holder of a visa of a class specified in subclause (3); or

- (D) the holder of a visa of a subclass specified in subclause (4); and
- (ii) arrives in Australia in the care of a person who is an Australian citizen or the holder of a visa; or
- (e) a person who:
 - (i) immediately before last departing Australia, held a visa of:
 - (A) a class specified in subclause (3); or
 - (B) a subclass specified in subclause (4); and
 - (ii) departed in circumstances in which it was not reasonably practicable to obtain a visa before departing; and
 - (iii) would, if refused immigration clearance, be prevented from reunion with a close relative of the person in Australia; or
- (f) a person who:
 - (i) immediately before last departing Australia, held a Student (Temporary) visa; and
 - (ii) departed in circumstances in which it was not reasonably practicable for the person to obtain a visa before departing; or
- (g) a person who:
 - (i) has entered Australia without a visa that is in effect; and
 - (ii) seeks to remain in Australia on a temporary basis; and
 - (iii) appears to the Minister, from information in the application, to be a person:
 - (A) who is eligible for the grant of a Tourist (Class TR) visa; or
 - (B) who is eligible for the grant of a Visitor (Class TV) visa; or
 - (C) who is, apart from the requirements of paragraph 1223A (3) (a) of Schedule 1 and clause 456.411 of this Schedule, eligible for the grant of a Subclass 456 (Business (Short Stay)) visa; or

(D) who is, apart from the requirements of subitem 1224 (3) of Schedule 1 and clause 771.411 of this Schedule, eligible for the grant of a Transit (Temporary) (Class TX) visa.

- (2) The classes of visa referred to in sub-subparagraph (1) (d) (i) (B) are the following:
- (a) Spouse (Migrant) (Class BC);
 - (ab) Partner (Migrant) (Class BC);
 - (b) Child (Migrant) (Class AH);
 - (c) Adoption (Migrant) (Class AA);
 - (d) Parent (Migrant) (Class AX);
 - (e) Preferential Relative (Migrant) (Class AY);
 - (f) Skilled — Australian Linked (Migrant) (Class AJ);
 - (g) Labour Agreement (Migrant) (Class AU);
 - (h) Employer Nomination (Migrant) (Class AN);
 - (j) Distinguished Talent (Migrant) (Class AL);
 - (k) Independent (Migrant) (Class AT);
 - (l) Business Skills (Migrant) (Class AD);
 - (la) Business Skills — Business Talent (Migrant) (Class EA);
 - (lb) Business Skills — Established Business (Residence) (Class BH);
 - (lc) Business Skills (Residence) (Class DF);
 - (n) Special Eligibility (Migrant) (Class AR);
 - (q) General (Residence) (Class AS);
 - (s) Confirmatory (Residence) (Class AK);
 - (t) Special Eligibility (Residence) (Class AO);
 - (u) Refugee and Humanitarian (Migrant) (Class BA);
 - (v) Camp Clearance (Migrant) (Class AF);
 - (w) East Timorese in Portugal (Special Assistance) (Class AM);
 - (x) Citizens of the Former Yugoslavia (Special Assistance) (Class AI);

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- (y) Minorities of Former USSR (Special Assistance) (Class AV);
 - (z) Burmese in Burma (Special Assistance) (Class AB);
 - (za) Sudanese (Special Assistance) (Class BD);
 - (zb) Burmese in Thailand (Special Assistance) (Class AC);
 - (zc) Cambodian (Special Assistance) (Class AE);
 - (zd) Return (Residence) (Class BB);
 - (ze) Norfolk Island Permanent Resident (Residence) (Class AW);
 - (zf) Protection (Class AZ);
 - (zfa) Protection (Class XA);
 - (zg) Territorial Asylum (Residence) (Class BE);
 - (zga) Designated Parent (Migrant) (Class BY);
 - (zgb) Designated Parent (Residence) (Class BZ);
 - (zh) Skilled – Independent (Migrant) (Class BN);
 - (zi) Skilled – Australian-sponsored (Migrant) (Class BQ);
 - (zj) Other Family (Migrant) (Class BO);
 - (zk) Aged Parent (Residence) (Class BP);
 - (zl) Partner (Residence) (Class BS);
 - (zm) Child (Residence) (Class BT);
 - (zn) Other Family (Residence) (Class BU);
 - (zo) Skilled — New Zealand Citizen (Residence) (Class DB);
 - (zp) Skilled — Independent Overseas Student (Residence) (Class DD);
 - (zq) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE);
 - (zr) Contributory Parent (Migrant) (Class CA);
 - (zs) Contributory Aged Parent (Residence) (Class DG);
 - (zt) Skilled — Designated Area-sponsored (Residence) (Class CC);
 - (zu) Skilled (Residence) (Class VB);
 - (zv) Skilled (Migrant) (Class VE).

- (3) The classes of visa referred to in sub-subparagraphs (1) (d) (i) (C) and (1) (e) (i) (A) are the following:
- (a) Business (Temporary) (Class TB);
 - (aa) Business Skills (Provisional) (Class UR);
 - (b) Cultural/Social (Temporary) (Class TE);
 - (c) Diplomatic (Temporary) (Class TF);
 - (d) Domestic Worker (Temporary) (Class TG);
 - (e) Educational (Temporary) (Class TH);
 - (f) Expatriate (Temporary) (Class TJ);
 - (g) Family Relationship (Temporary) (Class TL);
 - (ga) Graduate — Skilled (Temporary) (Class UQ);
 - (gb) Interdependency (Provisional) (Class UG);
 - (h) Interdependency (Temporary) (Class TM);
 - (i) Medical Practitioner (Temporary) (Class UE);
 - (ia) New Zealand Citizen Family Relationship (Temporary) (Class UP);
 - (j) Retirement (Temporary) (Class TQ);
 - (ja) Spouse (Provisional) (Class UF);
 - (jb) Partner (Provisional) (Class UF);
 - (k) Supported Dependant (Temporary) (Class TW);
 - (l) Working Holiday (Temporary) (Class TZ);
 - (m) Contributory Parent (Temporary) (Class UT);
 - (n) Contributory Aged Parent (Temporary) (Class UU);
 - (o) Skilled — Designated Area-sponsored (Provisional) (Class UZ);
 - (p) Skilled — Independent Regional (Provisional) (Class UX);
 - (q) Skilled (Provisional) (Class VC);
 - (r) Skilled (Provisional) (Class VF).
- (4) The subclasses of visa referred to in sub-subparagraphs (1) (d) (i) (D) and (1) (e) (i) (B) are the following:
- (a) Subclass 303 (Emergency (Temporary Visa Applicant));
 - (b) Subclass 457 (Business (Long Stay)).

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- 773.214 In the case of an application by an applicant other than a person referred to in paragraph 773.213 (1) (c), the Minister is satisfied that:
- (a) there are compelling reasons for granting a Subclass 773 visa to the applicant; and
 - (b) the presence of the applicant in Australia would not be contrary to Australia's interests; and
 - (c) the applicant has a good reason for not being the holder of a visa.
- 773.215 In the case of an application by an applicant referred to in paragraph 773.213 (1) (c), the Minister is satisfied, on the basis of a written statement by the applicant, that:
- (a) the applicant has reasonable grounds for having failed to comply with the condition; and
 - (b) there are compelling reasons for allowing the applicant to leave the place of immigration clearance with the permission of the clearance officer; and
 - (c) the specified person referred to in that paragraph will arrive in Australia within 30 days of the applicant being allowed to leave the place of immigration clearance with the permission of the clearance officer.
- 773.216 (1) Subject to subclause (2), if the applicant is an applicant referred to in paragraph 773.213 (1) (e), (f) or (g), the application is not made within 5 years of the grant of a previous Subclass 773 visa that was granted to the applicant on the basis of the applicant being a person of that kind.
- (2) Subclause (1) does not apply to an applicant:
- (a) if the applicant is a passenger on a vessel that has entered Australia because of matters beyond the control of the person in charge of the vessel; or
 - (b) if:
 - (i) there are compelling reasons for the grant of the visa to the applicant; and
 - (ii) the presence of the applicant in Australia would not be contrary to the interests of Australia; and

- (iii) the applicant has a good reason for not being the holder of a visa.

773.217 If the application is made in Australia after immigration clearance, the applicant is the holder of a Subclass 773 visa that was granted to the holder as a person referred to in paragraph 773.213 (1) (d).

773.22 Criteria to be satisfied at time of decision

773.221 If the application is made in Australia and the applicant seeks immigration clearance, the applicant continues to satisfy the criteria in clauses 773.212 to 773.216.

773.222 The applicant satisfies:

- (a) public interest criteria 4001, 4002, 4003, 4004, 4005 and 4012; and
- (b) if the applicant is not a person described in sub-subparagraph 773.213 (1) (d) (i) (A) or (B) — public interest criteria 4013 and 4014.

773.223 If the application is made in Australia and the applicant seeks immigration clearance, and has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

773.224 If the application is made in Australia after immigration clearance:

- (a) the Subclass 773 visa held by the applicant was granted subject to the satisfaction of a requirement or condition before the expiry of a period specified in the visa and that requirement has not been satisfied; and
- (b) the applicant establishes that it was not possible to satisfy the requirement or condition before expiry of the period; and
- (c) the Minister is satisfied that it would be unreasonable to require the person to leave Australia.

773.225 (1) If the applicant is an AusAID student or an AusAID recipient, the applicant has the support of the AusAID Minister for the grant of the visa.

(2) The Minister may waive the requirements of subclause (1) if the Minister is satisfied that, in the particular case, waiver is justified by:

- (a) compelling circumstances that affect the interests of Australia; or
- (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

773.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

773.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

773.4 Circumstances applicable to grant

773.411 When visa is granted, the applicant must be:

- (a) in Australia and in immigration clearance; or
- (b) in Australia after immigration clearance.

773.5 When visa is in effect

773.511 Temporary visa:

- (a) either:
 - (i) coming into effect on grant; or
 - (ii) providing that if:
 - (A) the applicant holds another substantive visa, other than:
 - (I) a Special Purpose visa; or
 - (II) a Subclass 988 (Maritime Crew) visa; that is in effect at the date of grant; and
 - (B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;
- this visa comes into effect when the other substantive visa ceases; and

- (b) permitting the holder to remain in Australia for a period specified by the Minister, not exceeding 30 days from the date of grant.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the other substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

- 773.512 If the visa holder holds another substantive visa at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

773.6 Conditions

- 773.611 Conditions applicable to the visa for which the applicant is apparently eligible.

773.7 Way of giving evidence

- 773.711 No evidence need be given.
773.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 786 Temporary (Humanitarian Concern)

786.1 Interpretation

Note No interpretation provisions specific to this Part.

786.2 Primary criteria

Note All applicants must satisfy the primary criteria.

786.21 Criteria to be satisfied at time of application

- 786.211 The applicant is the holder of a Temporary Safe Haven (Class UJ) visa.

786.22 Criteria to be satisfied at time of decision

- 786.221 The Minister is satisfied that, for reasons of humanitarian concern, the applicant should be permitted to remain in Australia for a further period.
- 786.222 The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
 - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.
- 786.223 (1) Subject to subclause (2), the applicant has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia.
- (2) Subclause (1) does not apply to an applicant if the applicant:
- (a) is under 11 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
 - (b) is a person:
 - (i) who is confirmed by a Commonwealth Medical Officer to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

- 786.224 The applicant satisfies public interest criterion 4001 or, if the applicant is unable to satisfy that criterion because the appropriate inquiries have not been completed, the applicant declares in writing, to the satisfaction of the Minister, that the applicant:
- (a) does not have a criminal record; and
 - (b) is not a terrorist; and
 - (c) has not engaged in crimes against humanity or war crimes; and
 - (d) will assist Immigration by attempting to obtain any relevant records relating to the applicant.
- 786.225 The applicant satisfies public interest criteria 4002 and 4003A.

786.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

786.4 Circumstances applicable to grant

- 786.411 The applicant must be in Australia.

786.5 When visa is in effect

- 786.511 Temporary visa permitting the holder to remain in, but not re-enter, Australia until the earlier of:
- (a) the end of 36 months from the date of grant of the visa; and
 - (b) the end of any shorter period determined in writing by the Minister from the date of grant of the visa.

786.6 Conditions

- 786.611 The holder must notify Immigration of any change in the holder's address at least 2 working days before the change.
- 786.612 The holder must not become involved in any disruptive activity, or violence, that may be a threat to the welfare of the Australian community or a group in the Australian community.

786.7 Way of giving evidence

786.711 No evidence need be given.

786.712 If evidence is given, to be given by a label affixed to a valid passport or valid Convention travel document.

Subclass 800 Territorial Asylum

800.1 Interpretation

Note No interpretation provisions specific to this Part.

800.2 Primary criteria

Note 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.

800.21 Criteria to be satisfied at time of application

800.211 The applicant has been granted territorial asylum in Australia by instrument of a Minister.

800.22 Criteria to be satisfied at time of decision

800.221 The applicant continues to satisfy the criterion in clause 800.211.

800.221A The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

800.222 (1) Each person who is a member of the family unit of the applicant and who is also an applicant for a Subclass 800 visa:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each person who is a member of the family unit of the applicant and is not an applicant for a Subclass 800 visa satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

800.223 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

800.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

800.31 Criteria to be satisfied at time of application

800.311 The applicant is a member of the family unit of a person who satisfies or has satisfied the primary criteria in Subdivision 800.21.

800.32 Criteria to be satisfied at time of decision

800.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 800 visa.

800.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4009; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

800.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

800.4 Circumstances applicable to grant

800.411 The applicant must be in the migration zone when the visa is granted.

800.5 When visa is in effect

800.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from date of grant.

800.6 Conditions: Nil.

800.7 Way of giving evidence

800.711 No evidence need be given.

800.712 If evidence is given, to be given by a label affixed to a valid passport, valid Convention travel document or an approved form.

Subclass 801 Partner

801.1 Interpretation

801.111 In this Part:

prospective marriage (temporary) visa means:

- (a) a Prospective Marriage (Temporary) (Class TO) visa; or
- (b) a Class 300 (prospective marriage) visa or entry permit within the meaning of the Migration (1993) Regulations; or
- (c) a prospective marriage visa (code number 300), or equivalent entry permit, within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (temporary) visa, within the meaning of the Migration Reform (Transitional Provisions) Regulations, being:
 - (i) such a visa granted on the basis of an application for a visa or entry permit of a kind specified in paragraph (b) or (c); or

- (ii) a visa or entry permit of such a kind having effect under those Regulations as a transitional (temporary) visa.

sponsoring partner means:

- (a) the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application for the Subclass 820 (Spouse) visa or Subclass 820 (Partner) visa as the spouse or de facto partner of the applicant; or
- (b) for a person to whom the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa — the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was the spouse or de facto partner of that person at the time the visa was granted.

Note *Australian permanent resident, eligible New Zealand citizen and long-term partner relationship* are defined in regulation 1.03, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

801.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The dependent child of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child satisfies the secondary criteria.

801.21 [No criteria to be satisfied at time of application.]

801.22 Criteria to be satisfied at time of decision

- 801.221
- (1) The applicant meets the requirements of subclause (2), (2A), (3), (4), (5), (6) or (8).
 - (2) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 820 visa; and
 - (b) the applicant continues to be sponsored for the grant of the Subclass 820 (Partner) visa by:
 - (i) the sponsoring partner; or

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- (ii) the Australian citizen, Australian permanent resident or eligible New Zealand citizen who sponsored the applicant for that visa; and
 - (c) the applicant is the spouse or de facto partner of the sponsoring partner; and
 - (d) subject to subclauses (6A) and (7), at least 2 years have passed since the application was made.
- (2A) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and
 - (b) the applicant is the spouse or de facto partner of the sponsoring partner; and
 - (c) subject to subclauses (6A) and (7), at least 2 years have passed since the Minister made the decision mentioned in paragraph (a).
- (3) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221 (2).
- (4) An applicant meets the requirements of this subclause if the applicant is the holder of a Subclass 820 visa granted on the basis that the applicant met the requirements of subclause 820.221 (3).
- (5) An applicant meets the requirements of this subclause if the applicant:
- (a) is the holder of a Subclass 820 visa; and
 - (b) would meet the requirements of subclause (2) or (2A) except that the sponsoring partner has died; and
 - (c) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died; and
 - (d) has developed close business, cultural or personal ties in Australia.

- (6) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 820 visa; and
 - (b) the applicant would meet the requirements of subclause (2) or (2A) except that the relationship between the applicant and the sponsoring partner has ceased; and
 - (c) either or both of the following circumstances applies:
 - (i) either or both of the following:
 - (A) the applicant;
 - (B) a dependent child of the sponsoring partner or of the applicant or of both of them;
has suffered family violence committed by the sponsoring partner;
 - (ii) the applicant:
 - (A) has custody or joint custody of, or access to;
or
 - (B) has a residence order or contact order made under the *Family Law Act 1975* relating to;
at least 1 child in respect of whom the sponsoring partner:
 - (C) has been granted joint custody or access by a court; or
 - (D) has a residence order or contact order made under the *Family Law Act 1975*; or
 - (E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note For special provisions relating to family violence, *see* Division 1.5.

(6A) Paragraphs (2) (d) and (2A) (c) do not apply to an applicant who at the time of making the application was in a long-term partner relationship with the sponsoring partner.

(7) Nothing in paragraphs (2) (d) and (2A) (c) prevents the Minister, less than 2 years after the application is made:

- (a) refusing to grant a Subclass 801 visa; or

- (b) in the case of an application made before 1 November 1996, granting a Subclass 801 visa to an applicant who was granted a Subclass 820 visa on the basis that he or she satisfied the requirements of subclause 820.211 (3) or (5); or
 - (c) granting a Subclass 801 visa to an applicant who was granted:
 - (i) an extended eligibility (spouse) (code number 820) entry permit under the Migration (1989) Regulations; or
 - (ii) a Class 820 (extended eligibility (spouse)) entry permit under the Migration (1993) Regulations;other than an applicant whose application was in accordance with approved form 47SP or 887; or
 - (d) approving the grant of a Subclass 801 visa to an applicant who meets the requirements of subclause (5) or (6).
- (8) The applicant meets the requirements of this subclause:
- (a) if the applicant held a Subclass 820 (Partner) visa that ceased on notification of a decision of the Minister to refuse a Subclass 801 visa; and
 - (b) if the Tribunal:
 - (i) has remitted that decision for reconsideration and, as a result, the Minister decides that the applicant satisfies the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa; or
 - (ii) has determined that the applicant satisfies the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa.
- 801.222 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 801.223 (1) The applicant:

- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Paragraph (1) (a) does not apply to an applicant who holds a Subclass 820 visa granted on the basis that the applicant satisfied the requirements of subclause 820.211 (3), (4) or (5).
- 801.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 801 visa is a person who:
- (a) subject to subclause (3) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 801 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- (3) Paragraph (1) (a) does not apply to an applicant who meets the requirements of clause 801.321 as the holder of a Subclass 820 visa granted on the basis that the applicant:
- (a) was the dependent child of a person who met the requirements of subclause 820.211 (3), (4) or (5); and
 - (b) entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.
- 801.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

- 801.226 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

801.3 Secondary criteria

Note A dependent child, or member of the family unit, of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child or member of the family unit satisfies the secondary criteria and his or her application is made before the Minister has decided to grant or refuse to grant the visa to the applicant meeting the primary criteria.

801.31 Criteria to be satisfied at time of application

- 801.311 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if the applicant is:
- (a) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa ; or
 - (b) a member of the family unit of a person who:
 - (i) is the holder of, or has been the holder of, a prospective marriage (temporary) visa; and
 - (ii) has applied for a Partner (Residence) (Class BS) visa;
- and the Minister has not decided to grant or refuse to grant a visa to the person.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and
 - (b) the applicant is a member of the family unit of a person who:

- (i) is the holder of a Subclass 820 (Spouse) visa or a Subclass 820 (Partner) visa; and
- (ii) has applied for a Partner (Residence) (Class BS) visa; and
- (c) the Minister has not decided to grant or refuse to grant a visa to the person.

801.32 Criteria to be satisfied at time of decision

801.321 An applicant meets the requirements of this clause if:

- (a) any of the following applies:
 - (i) the applicant is the holder of:
 - (A) a Subclass 445 (Dependent Child) visa; or
 - (B) a Subclass 820 (Spouse) visa; or
 - (C) a Subclass 820 (Partner) visa;
 - (ii) the applicant was the holder of:
 - (A) a Subclass 445 visa; or
 - (B) a Subclass 820 visa;which ceased on notification of a decision to refuse a Subclass 801 visa to the person of whom the applicant is a dependent child or of whose family unit the applicant is a member;
 - (iii) the applicant is a person:
 - (A) who holds:
 - (I) a Subclass 445 (Dependent Child) visa; or
 - (II) a Subclass 820 (Spouse) visa; or
 - (III) a Subclass 820 (Partner) visa;which the Minister has decided, under section 345, 351, 391, 417, 454 or 501J of the Act, to grant to the applicant; and
 - (B) who, at the time the visa mentioned in sub-subparagraph (A) was granted, was the dependent child, or a member of the family unit, as the case requires, of another person who was the holder of a Subclass 445 (Dependent Child) visa, Subclass 820

(Spouse) visa or Subclass 820 (Partner) visa;
and

- (b) that other person has been granted a Subclass 801 visa.
- 801.322 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 801.323 (1) The applicant:
- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Paragraph (1) (a) does not apply to an applicant who holds a Subclass 820 visa granted on the basis that the applicant met the requirements of clause 820.311 as the dependent child of a person:
- (a) who satisfied the requirements of subclause 820.211 (3), (4) or (5); and
 - (b) who entered Australia as the holder, as a dependent child, of a visa of the same class as the visa held by that person.
- 801.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 801.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

801.4 Circumstances applicable to grant

801.411 The applicant must be in Australia, but not in immigration clearance when the visa is granted.

801.5 When visa is in effect

801.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from date of grant.

801.6 Conditions: Nil.

801.7 Way of giving evidence

801.711 No evidence need be given.

801.712 If evidence is given, to be given by a label affixed to a valid passport.



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

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The text of any of those amendments not in force
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**[Note: Regulation 2.12A ceases to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains the Notes and Tables A and B
Each volume has its own Table of Contents

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Schedule 2 Provisions with respect to the grant of Subclasses of visas

Subclass 802 Child

802.1 Interpretation

In this Part:

letter of support means a letter of support provided by a State or Territory government welfare authority that:

- (a) supports a child's application for permanent residency in Australia; and
- (b) sets out:
 - (i) the circumstances leading to the involvement of a State or Territory government welfare authority in the welfare of the child; and
 - (ii) the State or Territory government welfare authority's reasons for supporting the child's application for permanent residency in Australia; and
- (c) describes the nature of the State or Territory government welfare authority's continued involvement in the welfare of the child; and
- (d) shows the letterhead of the State or Territory government welfare authority; and
- (e) is signed by a manager or director employed by the State or Territory government welfare authority.

Note *eligible New Zealand citizen* is defined in regulation 1.03.

802.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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. However, if an application for a visa is supported by a letter of support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

802.21 Criteria to be satisfied at time of application

802.211 If:

- (a) the applicant:
 - (i) was in Australia on 1 September 1994; and
 - (ii) was, immediately before 1 September 1994, a person to whom section 37 of the Act as in force immediately before that date applied; and
 - (iii) has not been granted a substantive visa on or after 1 September 1994; or
- (b) the applicant is a person to whom section 48 of the Act applies;

the applicant:

- (c) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
- (d) has become a dependent child of:
 - (i) an Australian citizen; or
 - (ii) the holder of a permanent visa; or
 - (iii) an eligible New Zealand citizen;since last applying for an entry permit or substantive visa.

802.212 (1) The applicant:

- (a) is a dependent child of a person who is an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
- (b) subject to subclause (2), has not turned 25.

(1A) If the applicant is a step-child of the person mentioned in paragraph (1) (a), the applicant is a step-child within the meaning of paragraph (b) of the definition of *step-child*.

(2) Paragraph (1) (b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

- 802.213 (1) If the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 802.212 (1) is an adoptive parent of the applicant, the applicant:
- (a) was under 18 when the adoption took place; and
 - (b) meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant meets the requirements of this subclause if the adoption of the applicant was in accordance with the Adoption Convention and an adoption compliance certificate is in force in relation to the adoption.
- (3) The applicant meets the requirements of this subclause if the adoptive parent was not an Australian citizen, holder of a permanent visa or New Zealand citizen when the adoption took place, but subsequently became an Australian citizen, holder of a permanent visa or New Zealand citizen.
- (4) The applicant meets the requirements of this subclause if:
- (a) the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
 - (b) before the adoption, a competent authority in Australia approved the adoptive parent as a suitable adoptive parent, or the adoptive parent and the adoptive parent's spouse or de facto partner as suitable adoptive parents, for the applicant.
- (5) The applicant meets the requirements of this subclause if:
- (a) the applicant was adopted in an overseas country and the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or New Zealand citizen; and
 - (b) either:
 - (i) when the adoption took place, the adoptive parent had been residing overseas for more than 12 months; or

-
- (ii) the Minister is satisfied that, because of compelling or compassionate circumstances, subparagraph (i) should not apply to the applicant; and
- (c) the Minister is satisfied that the residence overseas by the adoptive parent was not contrived to circumvent the requirements for entry to Australia of children for adoption; and
- (d) the adoptive parent has, or the adoptive parent and the adoptive parent's spouse or de facto partner have, lawfully acquired full and permanent parental rights by the adoption.
- 802.214 (1) If the applicant has turned 18:
- (a) the applicant:
- (i) is not engaged to be married; and
- (ii) does not have a spouse or de facto partner; and
- (iii) has never had a spouse or de facto partner; and
- (b) the applicant is not engaged in full-time work; and
- (c) subject to subclause (2), the applicant has, since turning 18, or within 6 months or a reasonable time after completing the equivalent of year 12 in the Australian school system, been undertaking a full-time course of study at an educational institution leading to the award of a professional, trade or vocational qualification.
- (2) Paragraph (1) (c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.
- 802.215 The applicant is:
- (a) a person whose application is supported by a letter of support from a State or Territory government welfare authority; or
- (b) sponsored by a person who:
- (i) has turned 18; and
- (ii) is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and

(iii) is:

- (A) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212 (1) (a); or
- (B) the cohabiting spouse or de facto partner of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212 (1) (a).

802.216 Clauses 802.211 to 802.214 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.

802.22 Criteria to be satisfied at time of decision

802.221 (1) In the case of an applicant who had not turned 18 at the time of application, the applicant:

- (a) continues to satisfy the criterion in clause 802.212; or
- (b) does not continue to satisfy that criterion only because the applicant has turned 18.

(2) In the case of an applicant who had turned 18 at the time of application:

- (a) the applicant:
 - (i) continues to satisfy the criterion in clause 802.212; or
 - (ii) does not continue to satisfy that criterion only because the applicant has turned 25; and
- (b) the applicant continues to satisfy the criterion in clause 802.214.

802.222 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.

802.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007; and

-
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 802.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 802 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 802 visa is a person who satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 802.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 802.226 The sponsorship mentioned in clause 802.215 has been approved by the Minister and is still in force.
- 802.226A (1) Clauses 802.221 to 802.226 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.
- (2) If the application for a visa is supported by a letter of support from a State or Territory government welfare authority:
- (a) the applicant satisfies:
- (i) the criteria in subclauses (3), (4), (5) and (6); and
- (ii) public interest criteria 4001, 4002, 4003 and 4018; and
- (b) the Minister is satisfied that:
- (i) the grant of visa is in the public interest; and
- (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.

- (3) The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
 - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.
- (4) The applicant:
- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
 - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
 - (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- (5) A relevant medical practitioner:
- (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (3); and
 - (ii) the radiological report (if any) required under subclause (4) in respect of the applicant; and

(b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

(6) If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

802.227 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source;
and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

802.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person. However, if an application for a visa is supported by a letter of support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

802.31 Criteria to be satisfied at time of application

802.311 Each of the following is satisfied:

(a) the applicant is a member of the family unit of a person to whom paragraph 802.215 (b) applies;

- (b) the applicant is a member of the family unit of a person who:
 - (i) has applied for a Child (Residence) (Class BT) visa; and
 - (ii) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 802.21;
 - (c) the Minister has not decided to grant or refuse to grant the visa to that other person.
- 802.312 The sponsorship mentioned in clause 802.215 of the person who satisfies the primary criteria includes sponsorship of the applicant.
- 802.32 Criteria to be satisfied at time of decision**
- 802.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 802 visa.
- 802.322 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 802.323 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:
 - (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 802.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 802.325 The sponsorship mentioned in clause 802.312 has been approved by the Minister and is still in force.

- 802.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.
- 802.327 Clauses 802.321 to 802.325 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.
- 802.328 (1) If the applicant's application for a visa is supported by a letter of support from a State or Territory government welfare authority and the applicant is an applicant to whom regulation 2.08 applies:
- (a) the applicant must:
 - (i) be a member of the family unit of a person to whom paragraph 802.215 (a) applies; and
 - (ii) satisfy subclauses (2), (3), (4) and (5); and
 - (iii) satisfy public interest criteria 4018; and
 - (b) the Minister must be satisfied that:
 - (i) the grant of visa is in the public interest; and
 - (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.
- (2) The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
 - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

- (3) The applicant:
 - (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
 - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
 - (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- (4) A relevant medical practitioner:
 - (a) has considered:
 - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (2); and
 - (ii) the radiological report (if any) required under subclause (3) in respect of the applicant; and
 - (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

(5) If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

802.4 Circumstances applicable to grant

802.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

802.5 When visa is in effect

802.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

802.6 Conditions: Nil.

802.7 Way of giving evidence

802.711 No evidence need be given.

802.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 804 Aged Parent

804.1 Interpretation

804.111 In this Part:

adult child, in relation to an applicant, means a child of the applicant who has turned 18.

Note aged parent and *eligible New Zealand citizen* are defined in regulation 1.03.

804.2 Primary criteria

Note 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.

804.21 Criteria to be satisfied at time of application

804.211 If:

- (a) the applicant:
 - (i) was in Australia on 1 September 1994; and
 - (ii) was, immediately before 1 September 1994, a person to whom section 37 of the Act as in force immediately before that date applied; and
 - (iii) has not been granted a substantive visa on or after 1 September 1994; or
 - (b) the applicant is a person to whom section 48 of the Act applies;
- the applicant:
- (c) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
 - (d) has become an aged parent of an Australian citizen, of an Australian permanent resident or of an eligible New Zealand citizen since last applying for an entry permit or substantive visa.

804.212 (1) The applicant:

- (a) is the parent of a person (the *child*) who is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; and
 - (b) is sponsored in accordance with subclause (2) or (3).
- (2) If the child has turned 18, the applicant is sponsored by:
- (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen.

-
- (3) If the child has not turned 18, the applicant is sponsored by:
- (a) the child's cohabiting spouse, if that spouse:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) is a close relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a close relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is a settled Australian citizen, or settled Australian permanent resident, or settled eligible New Zealand citizen; or
 - (d) a community organisation.
- 804.213 If the applicant is not the holder of a substantive visa, the applicant satisfies Schedule 3 criterion 3002.
- 804.214 If the applicant is not the holder of a substituted Subclass 676 visa, the applicant satisfies the balance of family test.

804.22 Criteria to be satisfied at time of decision

- 804.221 The applicant either:
- (a) is an aged parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen mentioned in paragraph 804.212 (1) (a); or
 - (b) if the applicant is the holder of a substituted Subclass 676 visa at the time of application — is the parent of an Australian citizen, an Australian permanent resident or

an eligible New Zealand citizen mentioned in paragraph 804.212 (1) (a).

804.222 A sponsorship of the kind mentioned in clause 804.212 is in force, whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 804.212.

804.224 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

804.225 The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the applicant are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4019
2	the holder of a substituted Subclass 676 visa at the time of application	4001, 4002, 4003, 4007, 4009, 4010 and 4019

804.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

Item	If the applicant ...	the public interest criteria to be satisfied by the applicant are ...
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

804.227 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

804.228 If the applicant has previously made a valid application for another parent visa:

- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or

- (ii) withdrawn; and
- (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

804.229 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

804.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

804.31 Criteria to be satisfied at time of application

804.311 The applicant is a member of the family unit of a person who:

- (a) has applied for an Aged Parent (Residence) (Class BP) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 804.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

804.312 A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

804.32 Criteria to be satisfied at time of decision

804.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 804 visa.

804.322 The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 804.321, and the person ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019
804.323 The Minister is satisfied that:		
	(a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or	
	(b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.	
804.324	If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.	
804.325	A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:	
	(a) is in force; and	
	(b) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.	
804.326	If the applicant has previously made a valid application for another parent visa:	
	(a) the application has been:	
	(i) finally determined (within the meaning of subsection 5 (9) of the <i>Migration Act 1958</i>); or	
	(ii) withdrawn; and	

-
- (b) any of the following has occurred in relation to the application for that visa:
- (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

804.327 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

804.4 Circumstances applicable to grant

804.411 The applicant must be in Australia, but not in immigration clearance when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

804.5 When visa is in effect

804.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

804.6 Conditions: Nil.

804.7 Way of giving evidence

804.711 No evidence need be given.

804.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 808 Confirmatory (Residence)

808.1 Interpretation

Note No interpretation provisions specific to this Part.

808.2 Primary criteria

Note All applicants must satisfy the primary criteria.

808.21 Criteria to be satisfied at time of application

808.211 The applicant:

- (a) is the holder of a Resident Return (Temporary) (Class TP) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa at the time he or she was granted the Resident Return (Temporary) (Class TP) visa; or

-
- (b) is a person who is the holder of an Emergency (Temporary) (Class TI) visa and:
 - (i) either:
 - (A) satisfies the remaining criteria, within the meaning of Part 302; or
 - (B) is unable to satisfy those criteria, but is able to substantiate a claim to be an Australian permanent resident; or
 - (ii) is a member of the family unit of a person who:
 - (A) is the holder of a Subclass 302 (Emergency (Permanent Visa Applicant)) visa; and
 - (B) has satisfied the primary criteria; or
 - (c) is the holder of a Border (Temporary) (Class TA) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa when he or she was granted the Border (Temporary) (Class TA) visa; or
 - (d) is the holder of a Class 301 (Australian requirement) entry permit or visa granted under the Migration (1993) Regulations and has satisfied the criteria referred to in paragraph 301.321 (b) of Schedule 2 of those Regulations.

808.212 In the case of an applicant who is the holder of a Subclass 302 visa, all members of the family unit of the applicant satisfy the public interest criteria applicable to them.

808.22 Criteria to be satisfied at time of decision

808.221 In the case of an applicant who is a member of the family unit of a person referred to in subparagraph 808.211 (b) (ii), the person referred to in that subparagraph holds a Confirmatory (Residence) (Class AK) visa.

808.222 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

808.3 Secondary criteria: Nil.

Note All applicants must meet the primary criteria.

808.4 Circumstances applicable to grant

- 808.411 The applicant must be inside Australia, but not in immigration clearance when the visa is granted.

Note The second instalment of the visa application charge (if any), must be paid before the visa can be granted.

808.5 When visa is in effect

- 808.511 Visa granted on basis of satisfaction of paragraph 808.211 (a) or (c): permanent visa.
- 808.512 Visa granted on basis of satisfaction of paragraph 808.211 (b) or (d): permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

808.6 Conditions: Nil.

808.7 Way of giving evidence

- 808.711 No evidence need be given.
- 808.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 820 Partner

820.1 Interpretation

- 820.111 In this Part:

court means a Court of Australia or an external Territory.

prospective marriage (temporary) visa means:

- (a) a Prospective Marriage (Temporary) (Class TO) visa; or

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- (b) a Class 300 (prospective marriage) visa or entry permit within the meaning of the Migration (1993) Regulations; or
 - (c) a prospective marriage visa (code number 300), or equivalent entry permit, within the meaning of the Migration (1989) Regulations; or
 - (d) a transitional (temporary) visa, within the meaning of the Migration Reform (Transitional Provisions) Regulations, being:
 - (i) such a visa granted on the basis of an application for a visa or entry permit of a kind specified in paragraph (b) or (c); or
 - (ii) a visa or entry permit of such a kind having effect under those Regulations as a transitional (temporary) visa.

sponsoring partner means:

- (a) for an applicant who is, or was, the holder of a prospective marriage (temporary) visa — the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application for that visa as the person whom the applicant intended to marry after entry into Australia; or
- (b) for any other applicant — the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application as the spouse or de facto partner of the applicant.

woman-at-risk visa means:

- (a) a Subclass 204 (Woman at Risk) visa; or
- (b) a Class 204 (woman at risk) visa within the meaning of the Migration (1993) Regulations; or
- (c) a woman at risk visa (code number 204) within the meaning of the Migration (1989) Regulations; or
- (d) a transitional (permanent) visa granted on the basis of an application for a visa of a kind referred to in paragraph (b) or (c).

Note ***eligible New Zealand citizen***, ***SOFA forces civilian component member*** and ***SOFA forces member*** are defined in regulation 1.03. For ***de facto partner***, see section 5CB of the Act (also see regulation 1.09A). For ***spouse***, see section 5F of the Act (also see regulation 1.15A).

820.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 member of a family unit. The dependent child of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child satisfies the secondary criteria.

820.21 Criteria to be satisfied at time of application

- 820.211 (1) The applicant:
- (a) is not the holder of a Subclass 771 (Transit) visa; and
 - (b) meets the requirements of subclause (2), (3), (4), (5), (6), (7), (8) or (9).
- (2) An applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of a person who:
 - (i) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) is not prohibited by subclause (2B) from being a sponsoring partner; and
 - (c) the applicant is sponsored:
 - (i) if the applicant's spouse or de facto partner has turned 18 — by the spouse or de facto partner; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (d) in the case of an applicant who is not the holder of a substantive visa — either:
 - (i) the applicant:
 - (A) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa holder who at the time of entry met the requirements of subclause (2A); and

- (B) satisfies Schedule 3 criterion 3002; or
 - (ii) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.
- (2A) An applicant meets the requirements of this subclause if:
- (a) the applicant is:
 - (i) a SOFA member; or
 - (ii) a SOFA forces civilian component member; or
 - (b) the applicant:
 - (i) is a dependent child of a person referred to in paragraph (a); and
 - (ii) holds a valid national passport and certificate that he or she is a dependant of a SOFA forces member or a SOFA forces civilian component member, as the case requires.
- (2B) The spouse or de facto partner of the applicant is prohibited from being a sponsoring partner if:
- (a) the spouse or de facto partner is a woman who was granted a woman-at-risk visa within the 5 years immediately preceding the application; and
 - (b) on the date of grant of that visa:
 - (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
 - (ii) the applicant was the spouse or de facto partner of that woman, and that relationship had not been declared to Immigration.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant last entered Australia before 19 December 1989; and

- (c) at the time the applicant entered Australia, he or she was engaged to be married to an Australian citizen or an Australian permanent resident; and
 - (d) the applicant has married that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (e) the applicant is the spouse of the sponsoring partner; and
 - (f) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant last entered Australia on or after 19 December 1989 as the holder of a Subclass 300 (Prospective Marriage (Temporary)) visa that authorised a stay in Australia of 3 months; and
 - (c) the applicant has married the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and
 - (d) the applicant ceased to hold a substantive visa before marrying that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (e) the applicant is the spouse of the sponsoring partner; and
 - (f) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or

- (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (5) An applicant meets the requirements of this subclause if:
 - (a) the applicant is not the holder of a substantive visa; and
 - (b) the applicant last entered Australia on or after 19 December 1989 as the holder of a prospective marriage (temporary) visa; and
 - (c) the applicant has married the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and
 - (d) the applicant ceased to hold a substantive visa after marrying that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
 - (e) the applicant is the spouse of the sponsoring partner; and
 - (f) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (6) An applicant meets the requirements of this subclause if the applicant:
 - (a) is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and

- (c) the applicant is sponsored:
 - (i) if the applicant's spouse has turned 18 — by the spouse; or
 - (ii) if the applicant's spouse has not turned 18 — by a parent or guardian of the spouse who:
 - (A) has turned 18; and
 - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
- (d) continues to be the spouse of the sponsoring partner.
- (7) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (c) the sponsoring partner has died; and
 - (d) the applicant satisfies the Minister that the applicant would have continued to be the spouse of the sponsoring partner if the sponsoring partner had not died; and
 - (e) the applicant has developed close business, cultural or personal ties in Australia.
- (8) An applicant meets the requirements of this subclause if:
 - (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and
 - (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
 - (c) the relationship between the applicant and the sponsoring partner has ceased; and
 - (d) any 1 or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant;

(iii) a dependent child of the sponsoring partner or of the applicant or of both of them;

has suffered family violence committed by the sponsoring partner.

(9) An applicant meets the requirements of this subclause if:

- (a) the applicant is not the holder of a substantive visa; and
- (b) the applicant has been the holder of a Subclass 300 (Prospective Marriage) visa; and
- (c) while that visa was valid, the applicant married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
- (d) the relationship between the applicant and the sponsoring partner has ceased; and
- (e) any 1 or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the applicant;
 - (iii) a dependent child of the sponsoring partner or of the applicant or of both of them;has suffered family violence committed by the sponsoring partner.

Note For special provisions relating to family violence, see Division 1.5.

820.212 If:

- (a) the applicant is the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa; or
- (b) the last substantive visa held by the applicant since entering Australia was:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or

- (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
- (iii) a Subclass 487 (Skilled — Regional Sponsored) visa;

the applicant has substantially complied with the conditions to which that visa was subject.

820.22 Criteria to be satisfied at time of decision

- 820.221 (1) In the case of an applicant referred to in subclause 820.211 (2), (3), (4), (5), (6), (7), (8) or (9), the applicant either:
- (a) continues to meet the requirements of the applicable subclause; or
 - (b) meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if the applicant:
- (a) would continue to meet the requirements of subclause 820.211 (2), (3), (4), (5) or (6) except that the sponsoring partner has died; and
 - (b) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died; and
 - (c) has developed close business, cultural or personal ties in Australia.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant would continue to meet the requirements of subclause 820.211 (2), (3), (4), (5) or (6) except that the relationship between the applicant and the sponsoring partner has ceased; and
 - (b) either or both of the following circumstances applies:
 - (i) either or both of the following:
 - (A) the applicant;

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- (B) a dependent child of the sponsoring partner or of the applicant or of both of them;
has suffered family violence committed by the sponsoring partner;
- (ii) the applicant:
- (A) has custody or joint custody of, or access to;
or
- (B) has a residence order or contact order made under the *Family Law Act 1975* relating to;
at least 1 child in respect of whom the sponsoring partner:
- (C) has been granted joint custody or access by a court; or
- (D) has a residence order or contact order made under the *Family Law Act 1975*; or
- (E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note For special provisions relating to family violence, *see* Division 1.5.

(4) The sponsorship mentioned in paragraph 820.211 (2) (c), (3) (f), (4) (f), (5) (f) or (6) (c) has been approved by the Minister and is still in force.

820.221A Unless the applicant:

- (a) is, or has been, the holder of a prospective marriage (temporary) visa; and
- (b) is seeking to remain permanently in Australia on the basis of the applicant's marriage to the person who was specified as the intended spouse in the application that resulted in the grant of that prospective marriage (temporary) visa;

the sponsorship of the applicant under clause 820.211 has been approved by the Minister.

Note For limitations on the Minister's discretion to approve sponsorships, *see* regulations 1.20J and 1.20KA.

- 820.222 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 820.223 (1) The applicant:
- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Paragraph (1) (a) does not apply to an applicant referred to in subclause 820.211 (3), (4) or (5).
- 820.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 820 visa is a person who:
- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (1A) Each member of the family unit of the applicant who is not an applicant for a Subclass 820 visa is a person who:
- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- (2) Paragraphs (1) (a) and (1A) (a) do not apply to an applicant who:
- (a) is a dependent child of an applicant referred to in subclause 820.211 (3), (4) or (5); and
 - (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.
- 820.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and

- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

820.226 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

820.3 Secondary criteria

Note A dependent child, or a member of the family unit, of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child or member of the family unit satisfies the secondary criteria.

820.31 Criteria to be satisfied at time of application

820.311 The applicant is:

- (a) either:
 - (i) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa; or
 - (ii) a member of the family unit of a person who:
 - (A) is the holder of, or has been the holder of, a prospective marriage (temporary) visa; and
 - (B) has applied for a Partner (Residence) (Class BS) visa; and
- (b) the sponsorship (if any) in respect of that person includes the applicant; and
- (c) the Minister has not decided to grant or refuse to grant a visa to the person.

820.312 In the case of an applicant who is not the holder of a substantive visa — either:

- (a) the applicant:
 - (i) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa

holder who at the time of entry met the requirements of subclause 820.211 (2A); and

- (ii) satisfies Schedule 3 criterion 3002; or
- (b) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.

820.313 If:

- (a) the applicant is the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa; or
- (b) the last substantive visa held by the applicant since entering Australia was:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa;

the applicant has substantially complied with the conditions to which that visa was subject.

820.32 Criteria to be satisfied at time of decision

820.321 In the case of an applicant referred to in subclause 820.311, the person on whom the applicant is dependent, or of whose family unit the applicant is a member, has satisfied the primary criteria and is the holder of a Subclass 820 visa.

820.322 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or

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- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 820.323 (1) The applicant:
- (a) subject to subclause (2) — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Paragraph (1) (a) does not apply to an applicant referred to in subclause 820.311 who:
- (a) is a dependent child of another applicant referred to in subclause 820.211 (3), (4) or (5); and
- (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.
- 820.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 820.325 The sponsorship mentioned in paragraph 820.311 (b) has been approved by the Minister and is still in force.
- 820.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

820.4 Circumstances applicable to grant

- 820.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

820.5 When visa is in effect

- 820.511 Temporary visa permitting the holder to travel to and enter Australia until:
- (a) the holder is notified that his or her application for a Subclass 801 (Partner) visa has been decided; or

(b) that application is withdrawn.

820.6 Conditions: Nil.

820.7 Way of giving evidence

820.711 No evidence need be given.

820.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 834 Permanent Resident of Norfolk Island

834.1 Interpretation

Note No interpretation provisions specific to this Part.

834.2 Primary criteria

Note All applicants must satisfy the primary criteria.

834.21 Criteria to be satisfied at time of application

834.211 The applicant is a permanent resident of Norfolk Island and holds, and has shown an officer, a passport that is in force and is endorsed with an authority to reside indefinitely on Norfolk Island.

834.22 Criteria to be satisfied at time of decision

834.221 The applicant continues to meet the requirements set out in clause 834.211.

834.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

834.4 Circumstances applicable to grant

834.411 At the time of grant the applicant must be in Australia and in immigration clearance.

834.5 When visa is in effect

834.511 Permanent visa permitting the holder to remain in Australia indefinitely.

834.6 Conditions: Nil.

834.7 Way of giving evidence

834.711 No evidence need be given.

834.712 If evidence is given, to be given by a port and date stamp placed in the passport of the holder.

Subclass 835 Remaining Relative

835.1 Interpretation

835.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note dependent child, eligible New Zealand citizen and settled are defined in regulation 1.03, *remaining relative* is defined in regulation 1.15, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

835.2 Primary criteria

Note 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 only satisfy the secondary criteria.

835.21 Criteria to be satisfied at time of application

835.211 The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and

- (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.
- 835.212 The applicant is a remaining relative of an Australian relative.
- 835.213 The applicant is sponsored:
 - (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
 - (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

835.22 Criteria to be satisfied at time of decision

- 835.221 The applicant continues to satisfy the criterion in clause 835.212.
- 835.222 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 835.223 The applicant:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

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- 835.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 835 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 835 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 835.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 835.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 835.227 A sponsorship of the kind mentioned in clause 835.213, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.
- Note* The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 835.213.
- 835.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

835.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

835.31 Criteria to be satisfied at time of application

835.311 The applicant is a member of the family unit of a person who:

- (a) has applied for an Other Family (Residence) (Class BU) visa; and
- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 835.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

835.312 A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

835.32 Criteria to be satisfied at time of decision

835.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 835 visa.

835.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

835.323 The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the

Secretary of the Department of Family and Community Services; or

- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

835.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

835.325 A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
(b) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.

835.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
(i) was issued to the applicant by an official source; and
(ii) is in the form issued by the official source; or
(b) it would be unreasonable to require the applicant to be the holder of a passport.

835.4 Circumstances applicable to grant

835.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

835.5 When visa is in effect

835.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

835.6 Conditions: Nil.

835.7 Way of giving evidence

835.711 No evidence need be given.

835.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 836 Carer

836.1 Interpretation

836.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note dependent child, eligible New Zealand citizen and settled are defined in regulation 1.03, and *carer* is defined in regulation 1.15AA.

836.2 Primary criteria

Note 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 only satisfy the secondary criteria.

836.21 Criteria to be satisfied at time of application

836.211 The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

836.212 The applicant claims to be the carer of an Australian relative.

836.213 The applicant is sponsored

- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and

-
- (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or
 - (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

836.22 Criteria to be satisfied at time of decision

836.221 The applicant is a carer of a person referred to in clause 836.212.

836.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

836.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 836 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 836 visa:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

- 836.225 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 836.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 836.227 The sponsorship mentioned in clause 836.213 has been approved by the Minister and is still in force.
- 836.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

836.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

836.31 Criteria to be satisfied at time of application

- 836.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Other Family (Residence) (Class BU) visa; and
 - (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 836.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.

836.312 The sponsorship mentioned in clause 836.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

836.32 Criteria to be satisfied at time of decision

836.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 836 visa.

836.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

836.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

836.325 The sponsorship mentioned in clause 836.312 has been approved by the Minister and is still in force.

836.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

836.4 Circumstances applicable to grant

836.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted, unless the applicant is a person in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer.

836.5 When visa is in effect

836.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

836.6 Conditions: Nil.

836.7 Way of giving evidence

836.711 No evidence need be given.

836.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 837 Orphan Relative

837.1 Interpretation

837.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note dependent child, eligible New Zealand citizen, relative and settled are defined in regulation 1.03, *orphan relative* is defined in regulation 1.14, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

837.2 Primary criteria

Note 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 only satisfy the secondary criteria.

837.21 Criteria to be satisfied at time of application

837.211 If the applicant is a person to whom section 48 of the Act applies, the applicant:

- (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and

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- (b) since last applying for an entry permit or substantive visa:
- (i) has become an orphan relative of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
 - (ii) became an orphan relative of the person mentioned in subparagraph (i) and is no longer an orphan relative only because the applicant has been adopted by that person.
- 837.212 The applicant is:
- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.
- 837.213 The applicant:
- (a) is an orphan relative of an Australian relative of the applicant; or
 - (b) is not an orphan relative only because the applicant has been adopted by the Australian relative mentioned in paragraph (a).
- 837.214 The applicant is sponsored:
- (a) by the Australian relative, if the relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident, or a settled eligible New Zealand citizen; or
 - (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

(iii) cohabits with the Australian relative.

837.22 Criteria to be satisfied at time of decision

- 837.221 The applicant:
- (a) continues to satisfy the criterion in clause 837.213; or
 - (b) does not continue to satisfy that criterion only because the applicant has turned 18.
- 837.222 If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of the Department of Family and Community Services.
- 837.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 837.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 837 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 837 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 837.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 837.226 The sponsorship mentioned in clause 837.214 has been approved by the Minister and is still in force.
- 837.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

837.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

837.31 Criteria to be satisfied at time of application

837.311 The applicant is a member of the family unit of a person who:

- (a) has applied for a Child (Residence) (Class BT) visa; and
- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 837.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

837.312 The sponsorship mentioned in clause 837.214 of the person who satisfies the primary criteria includes sponsorship of the applicant.

837.32 Criteria to be satisfied at time of decision

837.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 837 visa.

837.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

837.323 If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

- 837.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 837.325 The sponsorship mentioned in clause 837.312 has been approved by the Minister and is still in force.
- 837.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

837.4 Circumstances applicable to grant

- 837.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

837.5 When visa is in effect

- 837.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

837.6 Conditions: Nil.

837.7 Way of giving evidence

- 837.711 No evidence need be given.
- 837.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 838 Aged Dependent Relative

838.1 Interpretation

838.111 In this Part:

Australian relative means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note *aged dependent relative*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03.

838.2 Primary criteria

Note 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.

838.21 Criteria to be satisfied at time of application

838.211 The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
- (b) a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (iii) satisfies Schedule 3 criterion 3002.

838.212 The applicant is an aged dependent relative of an Australian relative.

838.213 The applicant is sponsored:

- (a) by the Australian relative, if the Australian relative:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; or

- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) cohabits with the Australian relative.

838.22 Criteria to be satisfied at time of decision

- 838.221 The applicant continues to satisfy the criterion in clause 838.212.
- 838.222 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 838.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4019.
- 838.224
 - (1) Each member of the family unit of the applicant who is an applicant for a Subclass 838 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
 - (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 838 visa satisfies:
 - (a) public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 838.225 If a person (in this clause called the *additional applicant*):
 - (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and

-
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 838.226 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 838.227 The sponsorship mentioned in clause 838.213 has been approved by the Minister and is still in force.
- 838.228 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

838.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

838.31 Criteria to be satisfied at time of application

- 838.311 The applicant is a member of the family unit of a person who:
- (a) has applied for an Other Family (Residence) (Class BU) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 838.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 838.312 The sponsorship mentioned in clause 838.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

838.32 Criteria to be satisfied at time of decision

- 838.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 838 visa.
- 838.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 838.323 The Minister is satisfied that:
- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
 - (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 838.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 838.325 The sponsorship mentioned in clause 838.312 has been approved by the Minister and is still in force.
- 838.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

838.4 Circumstances applicable to grant

- 838.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

838.5 When visa is in effect

838.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

838.6 Conditions: Nil.

838.7 Way of giving evidence

838.711 No evidence need be given.

838.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 845 Established Business in Australia

845.1 Interpretation

Note 1 *AUD*, *ownership interest* and *qualifying business* are defined in regulation 1.03; and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 There are no interpretation provisions specific to this Part.

845.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

845.21 Criteria to be satisfied at time of application

845.211 The applicant holds a temporary substantive visa other than any of the following visas:

- (a) a special purpose visa;
- (b) a Border (Temporary) (Class TA) visa;
- (c) a Diplomatic (Temporary) (Class TF) visa;
- (d) a Domestic Worker (Temporary) (Class TG) visa;
- (e) a Transit (Temporary) (Class TX) visa;

- (ea) a Maritime Crew (Temporary) (Class ZM) visa;
 - (eb) Superyacht Crew (Temporary) (Class UW) visa;
 - (f) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a visa referred to in paragraph (a), (b), (c), (d) or (e) before 1 September 1994.
- 845.212 One or more of the following circumstances has existed for a total of at least 272 days in the period of 12 months ending immediately before the application is made:
- (a) the applicant has been in Australia as the holder of a temporary substantive visa other than a visa referred to in clause 845.211;
 - (b) the applicant has been in Australia as the holder of a Bridging A (Class WA) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2;
 - (c) the applicant has been in Australia as the holder of a Bridging B (Class WB) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2.
- 845.213 The applicant:
- (a) has had an ownership interest in 1 or more established main businesses in Australia for the period of 18 months immediately preceding the making of the application; and
 - (b) continues to have an interest of that kind.
- 845.214 The assets in Australia of the applicant, or the applicant and his or her spouse or de facto partner together:
- (a) have a net value of at least AUD250 000; and

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- (b) had a net value of at least AUD250 000 throughout the period of 12 months ending immediately before the application is made; and
- (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 845.215 The assets owned by the applicant, or by the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
- (a) have a net value of at least AUD100 000; and
- (b) had a net value of at least AUD100 000 throughout the period of 12 months ending immediately before the application is made; and
- (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 845.216 In the 12 months immediately preceding the making of the application, the applicant, as the owner of an interest in a main business or main businesses in Australia, maintained direct and continuous involvement in the management of that business or those businesses from day to day and in making decisions that affected the overall direction and performance of that business or those businesses.
- 845.217 The applicant has overall had a successful business career.
- 845.218 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities of a nature that is not generally acceptable in Australia.
- 845.219 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 845 visa.
- 845.22 Criteria to be satisfied at time of decision**
- 845.221 The applicant continues to satisfy the criteria in clauses 845.213 to 845.218.

- 845.222 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.
- (2) For the purposes of subclause (1):
- (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
- (i) Division 1.4 of Schedule 7; and
 - (ii) Parts 2, 3 and 4 of that Schedule; and
- (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:
- (i) in the case of an attribute specified in Division 3.1 of Schedule 7 — at the time when the application is decided; and
 - (ii) in the case of any other attribute — at the time when the application is made;
- and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and
- (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
- (i) assets in Australia that have been lawfully acquired; or
 - (ii) assets, lawfully acquired, that are available for transfer, and capable of being transferred, to Australia within 2 years of the grant of a business skills visa to the applicant;
- are to be taken into account.
- 845.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 845.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 845 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 845 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

845.225 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant — public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

845.226 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

845.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

845.31 Criteria to be satisfied at time of application

845.311 The applicant is a member of the family unit of a person who:

- (a) has applied for a Business Skills — Established Business (Residence) (Class BH) visa; and

- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 845.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

845.32 Criteria to be satisfied at time of decision

- 845.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) An applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person (in this clause called *the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 845 visa.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) 1 or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;
has suffered family violence committed by the non-dependent holder.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
 - (b) the spouse or de facto partner meets the requirements of subclause (3); and
 - (c) the applicant has made a combined application with the non-dependent holder; and

- (d) the spouse or de facto partner has been granted a Subclass 845 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

845.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
(b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

845.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

845.324 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
(i) was issued to the applicant by an official source; and
(ii) is in the form issued by the official source; or
(b) it would be unreasonable to require the applicant to be the holder of a passport.

845.4 Circumstances applicable to grant

845.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

845.5 When visa is in effect

845.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 5 years from the date of grant.

845.6 Conditions: Nil.

845.7 Way of giving evidence

845.711 No evidence need be given.

845.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 846 State/Territory Sponsored Regional Established Business in Australia

846.1 Interpretation

846.111 In this Part:

designated area means an area specified by Gazette Notice as a designated area for the purposes of item 6701 in Schedule 6.

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

Note 1 appropriate regional authority, AUD and ownership interest are defined in regulation 1.03; and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

846.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

846.21 Criteria to be satisfied at time of application

846.211 The applicant:

- (a) is the holder of a Subclass 457 (Business (Long Stay)) visa; and
- (b) has been in Australia as the holder of a temporary substantive visa for a period of, or periods amounting to, at least 1 year during the period of 2 years immediately preceding the making of the application.

846.212 The applicant:

- (a) has had, throughout the 2 years immediately preceding the making of the application, an ownership interest in 1 or more established main businesses in 1 or more designated areas, which has, or together have, either:

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- (i) had a turnover of not less than AUD200,000 in each of those years; or
- (ii) exported goods or services of a value not less than AUD100,000 in each of those years; and
- (b) continues to have an interest of that kind.
- 846.213 The assets in Australia of the applicant, or the applicant and his or her spouse or de facto partner together:
- (a) have a net value of at least AUD200 000; and
- (b) had a net value of at least AUD200 000 throughout the period of 2 years ending immediately before the application is made; and
- (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 846.214 The assets owned by the applicant, or by the applicant and his or her spouse or de facto partner together, in 1 or more established main businesses in 1 or more designated areas:
- (a) have a net value of at least AUD75 000; and
- (b) had a net value of at least AUD75 000 throughout the period of 2 years ending immediately before the application is made; and
- (c) have been lawfully acquired by the applicant, or the applicant and his or her spouse or de facto partner together.
- 846.215 Throughout the 2 years immediately preceding the making of the application, the applicant, as the owner of an interest in 1 or more established main businesses in 1 or more designated areas, maintained direct and continuous involvement in the management of that business or those businesses from day to day and in making decisions that affected the overall direction and performance of that business or those businesses.
- 846.216 The applicant has overall had a successful business career.
- 846.217 Neither the applicant nor the applicant's spouse or de facto partner (if any) has a history of involvement in business or investment activities of a nature that is not generally acceptable in Australia.

- 846.218 (1) The applicant has notified an appropriate regional authority of a State or Territory of the applicant's business history in a designated area, or designated areas, in that State or Territory.
- (2) The applicant submits a notification, on approved form 950, from that appropriate regional authority stating that the authority will consider sponsoring the applicant.
- (3) The notification must:
- (a) be signed by an officer of the authority who is authorised to sign a notification of that kind; and
- (b) bear the seal of the authority.
- 846.219 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 846 visa.

846.22 Criteria to be satisfied at time of decision

- 846.221 The applicant continues to satisfy the criteria in clauses 846.211 to 846.218.
- 846.222 (1) The applicant meets the requirements of subclause (1A) or (1B).
- (1A) An applicant meets the requirements of this subclause if the applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.
- (1B) An applicant meets the requirements of this subclause if:
- (a) the applicant's score on the business skills points test is less than the number of points that is specified for the purposes of subclause (1A) by Gazette Notice; and
- (b) the regional authority mentioned in subclause 846.218 (2) satisfies the Minister that there are exceptional circumstances that justify the grant of the Subclass 846 visa to the applicant.

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- (2) For the purposes of subclauses (1A) and (1B):
- (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
- (i) Division 1.5 of Schedule 7; and
 - (ii) Parts 2, 3, 4 and 5 of that Schedule; and
- (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:
- (i) in the case of an attribute specified in Part 3 or 5 of that Schedule — at the time when the application is decided; and
 - (ii) in the case of any other attribute — at the time when the application is made;
- and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and
- (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
- (i) assets in Australia that have been lawfully acquired; or
 - (ii) assets, lawfully acquired, that are available for transfer, and capable of being transferred, to Australia within 2 years of the grant of a Business Skills — Established Business (Residence) (Class BH) visa to the applicant;
- are to be taken into account.
- 846.223 (1) The applicant has been sponsored (on approved form 949) by an appropriate regional authority.
- (2) The sponsorship must:
- (a) be given by the same authority as gave the notification referred to in subclause 846.218 (2); and
 - (b) be signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
 - (c) bear the seal of that authority; and
 - (d) be given to the Minister within 90 days after the Minister asks for it; and

- (e) be the first sponsorship of that kind, in relation to the applicant, given to the Minister.
- 846.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
- 846.225
- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 846 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
 - (a) if the person resides, or proposes to reside, in a participating State or Territory — public interest criterion 4007; or
 - (b) in any other case — public interest criterion 4005.
 - (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 846 visa is a person who:
 - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

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- (b) either:
- (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or
 - (ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

846.226 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

846.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

846.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

846.31 Criteria to be satisfied at time of application

846.311 The applicant is a member of the family unit of a person who:

- (a) has applied for a Business Skills — Established Business (Residence) (Class BH) visa; and

- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 846.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

846.32 Criteria to be satisfied at time of decision

- 846.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if the applicant is a member of the family unit of a person (in this clause called *the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 846 visa.

(3) An applicant meets the requirements of this subclause if:

(a) the applicant is the spouse or de facto partner of the non-dependent holder; and

(b) the relationship between the non-dependent holder and the applicant has ceased; and

(c) 1 or more of the following persons:

(i) the applicant;

(ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;

(iii) a dependent child of the applicant or of the non-dependent holder;

has suffered family violence committed by the non-dependent holder.

(4) An applicant meets the requirements of this subclause if:

(a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and

(b) the spouse or de facto partner meets the requirements of subclause (3); and

(c) the applicant has made a combined application with the non-dependent holder; and

- (d) the spouse or de facto partner has been granted a Subclass 846 visa.

Note For special provisions relating to family violence, see Division 1.5.

846.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (c) either:
- (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.

846.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

846.324 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

846.4 Circumstances applicable to grant

846.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

846.5 When visa is in effect

846.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 5 years from the date of grant.

846.6 Conditions: Nil.

846.7 Way of giving evidence

846.711 No evidence need be given.

846.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 850 Resolution of Status
(Temporary)**

850.1 Interpretation

Note *dependent child* is defined in regulation 1.03, *member of the family unit* in regulation 1.12, and *member of the immediate family* in regulation 1.12AA. There are no interpretation provisions specific to this Part.

850.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 person. The members of the immediate family of the person who satisfies the primary criteria and the dependent children of the spouse or de facto partner of that person, being members or children who are applicants for a visa of this Subclass, need satisfy only the secondary criteria.

850.21 Criteria to be satisfied at time of application

850.211 If:

- (a) the applicant:
 - (i) was in Australia on 1 September 1994; and
 - (ii) was, immediately before 1 September 1994, a person to whom section 37 of the Act as in force immediately before that date applied; and
 - (iii) has not been granted a substantive visa on or after 1 September 1994; or

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- (b) the applicant is a person to whom section 48 of the Act applies;
- the applicant has not been refused a visa, or had a visa cancelled, under section 501 of the Act.
- 850.212 (1) The applicant entered Australia, as the holder of:
- (a) a valid passport of a country mentioned in subclause (3); and
 - (b) an entry permit or an entry visa that had effect as an entry permit.
- (2) The applicant so entered Australia on or before the date specified in subclause (3) in relation to that country.
- (3) The countries and dates mentioned in subclauses (1) and (2) are as follows:
- (a) Iraq — 31 October 1991;
 - (b) Kuwait — 31 October 1991;
 - (c) Lebanon — 30 November 1991;
 - (d) PRC — 1 November 1993;
 - (e) Sri Lanka — 1 November 1993;
 - (f) Socialist Federal Republic of Yugoslavia — 1 November 1993;
 - (g) Federal Republic of Yugoslavia — 1 November 1993;
 - (h) Former Yugoslav Republic of Macedonia — 1 November 1993;
 - (i) Republic of Bosnia and Herzegovina — 1 November 1993;
 - (j) Republic of Croatia — 1 November 1993;
 - (k) Republic of Slovenia — 1 November 1993.
- 850.213 Immediately before the date when the applicant entered Australia as mentioned in clause 850.212, the applicant was a citizen of the country the government of which issued the passport, and was usually resident:
- (a) if the applicant was a citizen of Iraq — in Iraq; or
 - (b) if the applicant was a citizen of Kuwait — in Kuwait; or
 - (c) if the applicant was a citizen of Lebanon — in Lebanon;
- or

- (d) if the applicant was a citizen of PRC — in PRC; or
 - (e) if the applicant was a citizen of Sri Lanka — in Sri Lanka; or
 - (f) if the applicant was a citizen of:
 - (i) the Socialist Federal Republic of Yugoslavia; or
 - (ii) the Federal Republic of Yugoslavia; or
 - (iii) the Former Yugoslav Republic of Macedonia; or
 - (iv) the Republic of Bosnia and Herzegovina; or
 - (v) the Republic of Croatia; or
 - (vi) the Republic of Slovenia —
in a place that, on 19 June 1991, formed part of the Socialist Federal Republic of Yugoslavia.
- 850.214 (1) The applicant was in Australia for a period that is, or for periods that total, not less than 90% of the period that began on a date when the applicant entered Australia as mentioned in clause 850.212 and ended on the date of the making of the application.
- (2) For the purposes of subclause (1), where the applicant was not in Australia for 90% of the period, the Minister may include periods when the applicant was outside Australia if:
- (a) the applicant has maintained close business, cultural or personal ties in Australia; and
 - (b) the Minister is satisfied that compelling or strongly compassionate circumstances exist that explain why the applicant was outside Australia during those periods.
- 850.215 On 13 June 1997:
- (a) the applicant was in Australia; or
 - (b) the applicant was outside Australia and was the holder of a visa that was in effect and permitted the applicant to travel to and enter Australia.
- 850.216 The applicant is not the holder of a Diplomatic (Temporary) (Class TF) visa or a transitional (temporary) visa that the applicant is taken to hold because the applicant, before 1 September 1994, held, or applied for:
- (a) a diplomatic (code number 995) visa under the Migration (1989) Regulations; or

- (b) a Class 995 (Diplomatic) visa under the Migration (1993) Regulations.

850.217 If 2 or more persons have made a combined application as mentioned in paragraph 1216A (3) (f) of Schedule 1, the applicant is 18 years or more.

850.22 Criteria to be satisfied at time of decision

850.221 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

850.222 Each member of the immediate family of the applicant, and each dependent child of the spouse or de facto partner of the applicant, who is an applicant for a Subclass 850 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

850.223 Each member of the family unit of the applicant who is not an applicant for a Subclass 850 visa is a person who satisfies:

- (a) public interest criteria 4001, 4002, 4003 and 4004; and
- (b) public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

850.224 The applicant has never entered Australia otherwise than as the holder of:

- (a) a valid passport; and
- (b) a visa or entry permit.

850.225 If the applicant is, or has been, a student under a scholarship scheme or training program approved by AusAID:

- (a) the applicant made the application more than 2 years after the applicant's departure from Australia on ceasing the course of studies under the scheme or program; or
- (b) the applicant has the support in writing of AusAID for the grant of the visa.

850.226 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and

- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation
to the additional applicant.

850.3 Secondary criteria

Note If an applicant satisfies the primary criteria, a member of the immediate family of the applicant, or a dependent child of the spouse or de facto partner of that applicant, who is an applicant for a visa of this Subclass, is also eligible for the grant of the visa if the member or child satisfies the secondary criteria.

850.31 Criteria to be satisfied at time of application

850.311 The applicant is:

- (a) a member of the immediate family of a person (*the principal person*) who:
- (i) has made an application for a Resolution of Status (Temporary) (Class UH) visa mentioned in paragraph 1216A (3) (a) of Schedule 1; and
 - (ii) on the basis of the information provided in that application, appears to satisfy the criteria in Subdivision 850.21; or
- (b) a dependent child of the spouse or de facto partner of the principal person, being a spouse or de facto partner who is an applicant for a Resolution of Status (Temporary) (Class UH) visa.

850.312 The applicant:

- (a) was, on 13 June 1997, a member of the immediate family of the principal person; or
- (b) became a dependent child of the principal person after that date; or
- (c) was, on 13 June 1997, a dependent child of the spouse or de facto partner of the principal person.

850.313 The applicant has made (or is taken by regulation 2.08B to have made) a combined application with the principal person.

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- 850.314 The applicant is not the holder of a Diplomatic (Temporary) (Class TF) visa or a transitional (temporary) visa that the applicant is taken to hold because the applicant, before 1 September 1994, held, or applied for:
- (a) a diplomatic (code number 995) visa under the Migration (1989) Regulations; or
 - (b) a Class 995 (Diplomatic) visa under the Migration (1993) Regulations.

850.32 Criteria to be satisfied at time of decision

- 850.321 (1) The applicant meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant is a member of the immediate family of a person who, having satisfied the primary criteria, is the holder of a Subclass 850 visa.
- (3) If:
- (a) at the time of the application, the applicant was the spouse or de facto partner of a person (*the principal holder*) who, having satisfied the primary criteria, is the holder of a Subclass 850 visa; and
 - (b) the applicant would meet the requirements of subclause (2) except that the relationship between the applicant and the principal holder has ceased; and
 - (c) the applicant:
 - (i) has custody or joint custody of, or access to; or
 - (ii) has a residence order or contact order made under the *Family Law Act 1975* relating to:
at least 1 child in respect of whom the principal holder:
 - (iii) has been granted joint custody or access by a court; or
 - (iv) has a residence order or contact order made under the *Family Law Act 1975*; or
 - (v) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

(4) The applicant is a dependent child of the spouse or de facto partner of a person who, having satisfied the primary criteria, is the holder of a Subclass 850 visa.

(5) If:

- (a) at the time of the application, the applicant was a dependent child of the spouse or de facto partner of a person (*the principal holder*) who, having satisfied the primary criteria, is the holder of a Subclass 850 visa; and
- (b) the applicant would meet the requirements of subclause (4) except that the spouse or de facto partner of the principal holder has died;

the Minister is satisfied that:

- (c) the applicant would have continued to be a dependent child of the spouse or de facto partner of the principal holder if the spouse or de facto partner had not died; and
- (d) either:
 - (i) the married relationship or de facto relationship between the spouse or de facto partner and the principal holder would have continued; or
 - (ii) if the married relationship or de facto relationship between the spouse or de facto partner and the principal holder had ceased before the death of the spouse or de facto partner — the principal holder:
 - (A) has been granted joint custody or access by a court; or
 - (B) has a residence order or contact order made under the *Family Law Act 1975*; or
 - (C) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation; in relation to the applicant.

850.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.

850.323 The applicant has never entered Australia otherwise than as the holder of:

- (a) a valid passport; and

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- (b) a visa or entry permit.
- 850.324 If the applicant is, or has been, a student under a scholarship scheme or training program approved by AusAID:
- (a) the applicant made the application more than 2 years after the applicant's departure from Australia on ceasing the course of studies under the scheme or program; or
 - (b) the applicant has the support in writing of AusAID for the grant of the visa.
- 850.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

850.4 Circumstances applicable to grant

- 850.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

850.5 When visa is in effect

- 850.511 Temporary visa permitting the holder:
- (a) to travel to and enter Australia until a date specified by the Minister; and
 - (b) to remain in Australia until the end of the day on which:
 - (i) the holder is notified that the holder's application for a Resolution of Status (Residence) (Class BL) visa has been decided; or
 - (ii) that application is withdrawn.

850.6 Conditions: Nil.

850.7 Way of giving evidence

- 850.711 Visa label affixed to a passport.

Subclass 851 Resolution of Status

851.1 Interpretation

Note There are no interpretation provisions specific to this Part.

851.2 Primary criteria

Note The primary criteria have to be satisfied by all applicants for Subclass 851 visas.

851.21 [No criteria to be satisfied at time of application]

851.22 Criteria to be satisfied at time of decision

851.221 The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

851.222 The applicant:

- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
- (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
- (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and

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- (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
- (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- 851.223 A relevant medical practitioner:
- (a) has considered:
- (i) the results of any tests carried out for the purposes of the medical examination required under clause 851.221; and
- (ii) the radiological report (if any) required under clause 851.222 in respect of the applicant; and
- (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.
- 851.224 If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.
- 851.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002 and 4003A; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 851.226 If the applicant was taken to have made an application because the criteria in item 4 of the table in subregulation 2.07AQ (3) were satisfied, the applicant and

the other person mentioned in that item are members of the family unit.

851.227 If the criteria in item 3 of the table in paragraph 1127AA (3) (c) of Schedule 1 were satisfied, the applicant and the other person mentioned in that item are members of the same family unit.

851.3 Secondary criteria

Note There are no secondary criteria for the grant of a Subclass 851 visa.

851.4 Circumstances applicable to grant

851.411 The applicant must be in Australia.

851.5 When visa is in effect

851.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

851.6 Conditions: Nil.

851.7 Way of giving evidence

851.711 No evidence need be given.

851.712 If evidence is given, to be given by a label affixed to a valid passport, valid Convention travel document or an approved form.

Subclass 852 Witness Protection (Trafficking) (Permanent)

852.1 Interpretation

Note 1 Regulation 1.03 provides that *member of the immediate family* has the meaning set out in regulation 1.12AA.

Note 2 There are no interpretation provisions specific to this Part.

852.2 Primary criteria

Note The primary criteria must be satisfied by at least one member of an immediate family. The other members of the immediate family who are applicants for a visa of this subclass need satisfy only the secondary criteria.

852.21 Criteria to be satisfied at time of application

852.211 The applicant is taken to have made a valid application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa under subregulation 2.07AK (2) in accordance with subregulation 2.07AK (3).

852.22 Criteria to be satisfied at time of decision

852.222 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

852.223 The requirements of paragraphs 2.07AK (3) (d), (e) and (f) continue to be met in relation to the applicant.

852.224 Each member of the immediate family of the applicant who is an applicant for a Subclass 852 (Witness Protection (Trafficking) (Permanent)) visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

852.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the immediate family of a person who satisfies the primary criteria.

852.31 Criteria to be satisfied at time of application

852.311 The applicant is a member of the immediate family of a person who is taken, under subregulation 2.07AK (2), to have made a valid application for a Witness Protection

(Trafficking) (Permanent) (Class DH) visa in accordance with subregulation 2.07AK (3).

Note See regulation 2.07AK for how an application for a Witness Protection (Trafficking) (Permanent) (Class DH) visa is taken to have been validly made.

852.312 The Minister has not decided to grant or refuse to grant a Subclass 852 (Witness Protection (Trafficking) (Permanent)) visa to the person mentioned in clause 852.311.

852.32 Criteria to be satisfied at time of decision

852.321 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

852.322 The applicant continues to be a member of the immediate family of the person mentioned in clause 852.311.

852.323 The person mentioned in clause 852.311 has been granted a Subclass 852 (Witness Protection (Trafficking) (Permanent)) visa.

852.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

852.4 Circumstances applicable to grant

852.411 The applicant may be in or outside Australia when the visa is granted.

852.5 When visa is in effect

852.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

852.6 Conditions

852.611 If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified for this clause by the Minister.

852.7 Way of giving evidence

852.711 No evidence need be given.

852.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 855 Labour Agreement

855.1 Interpretation

855.111 In this Part:

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

Note 1 For *award course*, see regulation 1.03.

Note 2 For *category A course*, see regulation 1.03.

Note 3 For *category B student*, see regulation 1.03.

Note 3A For *competent English*, see regulation 1.15C.

Note 4 For *diploma*, see subregulation 2.26A (6).

Note 5 For *IASS agreement*, see regulation 1.16B.

Note 6 For *labour agreement*, see regulation 1.03.

Note 7 For *RHQ agreement*, see regulation 1.16A.

855.2 Primary criteria

Note 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.

855.21 Criteria to be satisfied at time of application

- 855.211 (1) The applicant is not the holder of:
- (a) a visa of one of the following classes:
 - (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);

- (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV); or
 - (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes:
 - (A) Electronic Travel Authority (Class UD);
 - (B) Long Stay (Visitor) (Class TN);
 - (BA) Maritime Crew (Temporary) (Class ZM);
 - (C) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (D) Short Stay (Visitor) (Class TR);
 - (DA) Superyacht Crew (Temporary) (Class UW);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 456 (Business (Short Stay)) visa.
- 855.212 (1) Subject to subclause (2), the applicant meets the requirements of subclause (3), (5), (6) or (7).
- (2) Subclause (1) does not apply to an applicant who does not hold a substantive visa if he or she would have satisfied the requirements of that subclause if the application had been made immediately before his or her substantive visa ceased.
- (3) The applicant meets the requirements of this subclause if the applicant holds a qualifying visa within the meaning of subclause (4).

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- (4) For the purposes of subclause (3), a visa is a qualifying visa if it is:
- (a) a visa of one of the following classes:
 - (i) Business (Temporary) (Class TB);
 - (ii) Cultural/Social (Temporary) (Class TE);
 - (iii) Educational (Temporary) (Class TH);
 - (iv) Family Relationship (Temporary) (Class TL);
 - (v) Interdependency (Temporary) (Class TM);
 - (vi) Medical Practitioner (Temporary) (Class UE);
 - (vii) Special Category (Temporary) (Class TY);
 - (viii) Supported Dependant (Temporary) (Class TW);
 - (ix) New Zealand Citizen (Family Relationship) (Temporary) (Class UP); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Confirmatory (Temporary) (Class TD) visa granted on the basis that the applicant:
 - (i) had applied for a visa of a class or subclass specified in paragraph (a) or (b), but needed to travel to Australia before a criterion, or criteria, for the grant of that visa had been satisfied; and
 - (ii) subsequently satisfied that criterion or those criteria; or
 - (d) a Graduate — Skilled (Temporary) (Class UQ) visa; or
 - (e) a Subclass 476 (Skilled — Recognised Graduate) visa; or
 - (f) a Subclass 485 (Skilled — Graduate) visa.
- (5) The applicant meets the requirements of this subclause if he or she:
- (a) held one or more Group 2.6 (refugee and humanitarian (temporary entry)) entry permits under the Migration (1993) Regulations permitting temporary residence in Australia for a total period of more than 12 months; and
 - (b) is taken to hold a transitional (temporary) visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she held a Group 2.6 (refugee and humanitarian (temporary entry)) entry permit under the

Migration (1993) Regulations immediately before 1 September 1994.

(6) The applicant meets the requirements of this subclause if:

(a) he or she is the holder of a Student (Temporary) (Class TU) visa granted in relation to an award course at diploma level or above completed by the applicant while he or she was the holder of that visa; or

(b) he or she:

(i) is the holder of a Group 2.2 (student) entry permit granted under the Migration (1993) Regulations in relation to a formal course, or a category A course, completed by the applicant while the holder of that permit; and

(ii) is not a category B student for the purposes of the Migration (1993) Regulations.

(7) The applicant meets the requirements of this subclause if he or she is the holder of a Working Holiday (Temporary) (Class TZ) visa.

855.212A The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

855.213 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if:

(a) the applicant has been nominated to work in Australia, in accordance with a labour agreement that is in effect, by an employer that is a party to that labour agreement; and

(b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the labour agreement; and

(c) unless exceptional circumstances apply:

(i) the applicant is less than 45; or

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- (ii) in the case of an applicant mentioned in subparagraph 1121A (2) (a) (ii) or (iii) of Schedule 1 — the applicant was less than 45 at the time of application for the Skilled (Residence) (Class VB) visa or the Skilled (Migrant) (Class VE) visa; and
- (d) the requirements of the labour agreement have been met in relation to the application.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant has been nominated to work in Australia, in accordance with an RHQ agreement that is in effect, by an employer that is a party to that RHQ agreement; and
- (b) the requirements of the RHQ agreement have been met in relation to the application.
- (4) An applicant meets the requirements of this subclause if:
- (a) the applicant has been nominated to work in Australia, in accordance with an IASS agreement that is in effect, by an employer that is a party to that IASS agreement; and
- (b) the applicant has qualifications and experience that are suitable for the position to be taken by the applicant under the IASS agreement; and
- (c) unless exceptional circumstances apply:
- (i) the applicant is less than 45; or
- (ii) in the case of an applicant mentioned in subparagraph 1121A (2) (a) (ii) or (iii) of Schedule 1 — the applicant was less than 45 at the time of application for the Skilled (Residence) (Class VB) visa or the Skilled (Migrant) (Class VE) visa; and
- (d) the requirements of the IASS agreement have been met in relation to the application.
- 855.214 In the case of an applicant mentioned in subparagraph 1121A (2) (a) (ii) or (iii) of Schedule 1:
- (a) the applicant has competent English; and

- (b) the applicant has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification.

855.22 Criteria to be satisfied at time of decision

- 855.221
- (1) The applicant meets the requirements of subclause (2), (3) or (4).
 - (2) An applicant meets the requirements of this subclause if:
 - (a) the employer mentioned in subclause 855.213 (2) is a party to a labour agreement that is in effect; and
 - (b) the nomination mentioned in subclause 855.213 (2):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.
 - (3) An applicant meets the requirements of this subclause if:
 - (a) the employer mentioned in subclause 855.213 (3) is a party to an RHQ agreement that is in effect; and
 - (b) the nomination mentioned in subclause 855.213 (3):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.
 - (4) An applicant meets the requirements of this subclause if:
 - (a) the employer mentioned in subclause 855.213 (4) is a party to an IASS agreement that is in effect; and
 - (b) the nomination mentioned in subclause 855.213 (4):
 - (i) has been approved; and
 - (ii) has not been withdrawn; and
 - (c) the position specified in the nomination is still available to the applicant.
- 855.222 The Minister is satisfied that the applicant's working conditions will be no less favourable than working conditions provided for under relevant Australian legislation and awards.

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- 855.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
- 855.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 855 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.
 - (a) if the person resides or proposes to reside in a participating State or Territory — public interest criterion 4007; or
 - (b) in any other case — public interest criterion 4005.
- (1A) Each member of the family unit of the applicant who is an applicant for a Subclass 855 visa satisfies special return criterion 5010 (whether or not the member has previously been in Australia).
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 855 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) either:
 - (i) if the applicant resides or proposes to reside in a participating State or Territory — satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or
 - (ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

855.226 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

855.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

855.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

855.31 Criteria to be satisfied at time of application

855.311 The applicant is a member of the family unit of a person who:

- (a) has applied for a Labour Agreement (Residence) (Class BV) visa; and

- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 855.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

855.312 Any nomination given in respect of that other person includes the applicant.

855.313 The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

855.32 Criteria to be satisfied at time of decision

855.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (*the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 855 visa.

(3) The applicant meets the requirements of this subclause if:

- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
- (b) the relationship between the non-dependent holder and the applicant has ceased; and
- (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;has suffered family violence committed by the non-dependent holder.

(4) The applicant meets the requirements of this subclause if:

- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
- (b) the spouse or de facto partner meets the requirements of subclause (3); and
- (c) the applicant has made a combined application with the non-dependent holder; and
- (d) the spouse or de facto partner has been granted a Subclass 855 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

855.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
- (c) either:
 - (i) if the applicant resides, or proposes to reside, in a participating State or Territory — satisfies public interest criterion 4007; or
 - (ii) if subparagraph (i) does not apply to the applicant — satisfies public interest criterion 4005.

855.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

855.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

855.4 Circumstances applicable to grant

855.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

855.5 When visa is in effect

855.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

855.6 Conditions: Nil.

855.7 Way of giving evidence

855.711 No evidence need be given.

855.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 856 Employer Nomination Scheme

856.1 Interpretation

856.111 In this Part:

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

Note 1 For *award course*, see regulation 1.03.

Note 2 For *approved appointment*, see regulation 5.19.

Note 3 For *category A course*, see regulation 1.03.

Note 4 For *category B student*, see regulation 1.03.

Note 5 For *competent English*, see regulation 1.15C.

Note 6 For *diploma*, see subregulation 2.26A (6).

Note 7 For *vocational English*, see regulation 1.15B.

856.2 Primary criteria

Note 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.

856.21 Criteria to be satisfied at time of application

856.211 (1) The applicant is not the holder of:

- (a) a visa of one of the following classes:
 - (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);
 - (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV); or
 - (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes:
 - (A) Electronic Travel Authority (Class UD);
 - (B) Long Stay (Visitor) (Class TN);
 - (BA) Maritime Crew (Temporary) (Class ZM);
 - (C) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (D) Short Stay (Visitor) (Class TR);
 - (DA) Superyacht Crew (Temporary) (Class UW);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 456 (Business (Short Stay)) visa.
- 856.212 (1) Subject to subclause (2), the applicant meets the requirements of subclause (3), (5), (6) or (7).

(2) Subclause (1) does not apply to an applicant who does not hold a substantive visa if he or she would have satisfied the requirements of that subclause if the application had been made immediately before his or her substantive visa ceased.

(3) The applicant meets the requirements of this subclause if the applicant holds a qualifying visa within the meaning of subclause (4).

(4) For the purposes of subclause (3), a visa is a qualifying visa if it is:

- (a) a visa of one of the following classes:
 - (i) Business (Temporary) (Class TB);
 - (ii) Cultural/Social (Temporary) (Class TE);
 - (iii) Educational (Temporary) (Class TH);
 - (iv) Family Relationship (Temporary) (Class TL);
 - (v) Interdependency (Temporary) (Class TM);
 - (vi) Medical Practitioner (Temporary) (Class UE);
 - (vii) Special Category (Temporary) (Class TY);
 - (viii) Supported Dependant (Temporary) (Class TW);
 - (ix) New Zealand Citizen (Family Relationship) (Temporary) (Class UP);
 - (x) Skilled — Independent Regional (Provisional) (Class UX);
 - (xi) Skilled (Provisional) (Class VC);
 - (xii) Skilled (Provisional) (Class VF); or
- (b) a Subclass 457 (Business (Long Stay)) visa; or
- (c) a Confirmatory (Temporary) (Class TD) visa granted on the basis that the applicant:
 - (i) had applied for a visa of a class or subclass specified in paragraph (a) or (b), but needed to travel to Australia before a criterion, or criteria, for the grant of that visa had been satisfied; and
 - (ii) subsequently satisfied that criterion or those criteria; or
- (d) a Graduate — Skilled (Temporary) (Class UQ) visa; or
- (e) a Subclass 161 (Senior Executive (Provisional)) visa; or

- (f) a Subclass 164 (State/Territory Sponsored Senior Executive (Provisional)) visa.
 - (5) The applicant meets the requirements of this subclause if he or she:
 - (a) held one or more Group 2.6 (refugee and humanitarian (temporary entry)) entry permits under the Migration (1993) Regulations permitting temporary residence in Australia for a total period of more than 12 months; and
 - (b) is taken to hold a transitional (temporary) visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she held a Group 2.6 (refugee and humanitarian (temporary entry)) entry permit under the Migration (1993) Regulations immediately before 1 September 1994.
 - (6) The applicant meets the requirements of this subclause if:
 - (a) he or she is the holder of a Student (Temporary) (Class TU) visa granted in relation to an award course at diploma level or above completed by the applicant while he or she was the holder of that visa; or
 - (b) he or she:
 - (i) is the holder of a Group 2.2 (student) entry permit granted under the Migration (1993) Regulations in relation to a formal course, or a category A course, completed by the applicant while the holder of that permit; and
 - (ii) is not a category B student for the purposes of the Migration (1993) Regulations.
 - (7) The applicant meets the requirements of this subclause if he or she is the holder of a Working Holiday (Temporary) (Class TZ) visa.
- 856.212A The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).
- 856.213 Each of the following is satisfied:
- (a) the applicant has been nominated by an employer, in accordance with subregulation 5.19 (2), for an appointment in the business of that employer;

- (b) either:
- (i) both of the following are met:
 - (A) an assessing authority specified by the Minister in a Gazette Notice for this sub-subparagraph as the assessing authority for the occupation to which the appointment relates has assessed the applicant's skills as suitable;
 - (B) unless exceptional circumstances apply, the applicant has been employed in the occupation to which the appointment relates for at least 3 years before making the application; or
 - (ii) the applicant will be paid a salary in the nominated position that is at least the amount of salary specified in a Gazette Notice for this subparagraph; or
 - (iii) the applicant:
 - (A) holds a Subclass 418, 421, 422, 428, 444, 457 or 461 visa; and
 - (B) has worked full-time in the occupation to which the appointment relates in Australia, while holding a visa of a subclass mentioned in sub-subparagraph (A), for at least the period of 2 years immediately before making the application; and
 - (C) has worked full-time for the employer mentioned in paragraph (a), and in the occupation to which the appointment relates, while holding a visa of a subclass mentioned in sub-subparagraph (A), for at least the period of 1 year immediately before making the application;
- (c) either:
- (i) in the case of an applicant mentioned in subparagraph 1114A (2) (a) (iii) or (iv) of Schedule 1 — the applicant:
 - (A) is less than 45 at the time of the application for a Skilled (Residence) (Class VB) visa or a Skilled (Migrant) (Class VE) visa; and

- (B) has competent English; and
 - (C) has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification; or
 - (ii) in any other case — unless exceptional circumstances apply, the applicant:
 - (A) is less than 45; and
 - (B) has vocational English.
- 856.214 If the appointment is an approved appointment, the period that has elapsed since it became an approved appointment does not exceed 6 months.
- 856.215 If it is mandatory in Australia that a person:
- (a) hold a licence of a particular kind; or
 - (b) hold registration of a particular kind; or
 - (c) be a member (or a member of a particular kind) of a particular professional body;
- to perform tasks of the kind to be performed under the appointment, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body.
- 856.22 Criteria to be satisfied at time of decision**
- 856.221 The appointment mentioned in paragraph 856.213 (a):
- (a) has been approved; and
 - (b) has not been withdrawn; and
 - (c) continues to satisfy the criteria for approval; and
 - (d) is still available to the applicant.
- Note* See regulation 5.19 for the criteria for approval of the appointment.
- 856.222 The Minister is satisfied that the appointment mentioned in paragraph 856.213 (a) will provide the employment referred to in the relevant employer nomination.
- 856.223 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and

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- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) The applicant also satisfies:
- (a) either of the following:
- (i) if the applicant was the holder, at the time of application, of:
- (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
- (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
- (ii) if the applicant resides or proposes to reside in a participating State or Territory;
public interest criterion 4007; or
- (b) if paragraph (a) does not apply — public interest criterion 4005.
- 856.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 856 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (1AA) Each member of the family unit of the applicant is a person who also satisfies:
- (a) either of the following:
- (i) if the applicant was the holder, at the time of application, of:
- (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
- (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
- (ii) if the applicant resides or proposes to reside in a participating State or Territory;

public interest criterion 4007; or

- (b) if paragraph (a) does not apply — public interest criterion 4005.

(1A) Each member of the family unit of the applicant who is an applicant for a Subclass 856 visa satisfies special return criterion 5010 (whether or not the member has previously been in Australia).

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 856 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

(b) either:

(i) if:

(A) the applicant was the holder, at the time of application, of:

(I) a Skilled — Independent Regional (Provisional) (Class UX) visa; or

(II) a Subclass 475 (Skilled — Regional Sponsored) visa; or

(III) a Subclass 487 (Skilled — Regional Sponsored) visa; or

(B) the applicant resides or proposes to reside in a participating State or Territory;

satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or

(ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

856.226 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
(b) has not turned 18; and

- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

856.227 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

856.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

856.31 Criteria to be satisfied at time of application

856.311 The applicant is a member of the family unit of a person who:

- (a) has applied for an Employer Nomination (Residence) (Class BW) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 856.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

856.312 Any nomination given in respect of that other person includes the applicant.

856.313 The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

856.32 Criteria to be satisfied at time of decision

856.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (*the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 856 visa.

(3) The applicant meets the requirements of this subclause if:

- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
- (b) the relationship between the non-dependent holder and the applicant has ceased; and
- (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;has suffered family violence committed by the non-dependent holder.

(4) The applicant meets the requirements of this subclause if:

- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
- (b) the spouse or de facto partner meets the requirements of subclause (3); and
- (c) the applicant has made a combined application with the non-dependent holder; and
- (d) the spouse or de facto partner has been granted a Subclass 856 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

- 856.322 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

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- (2) The applicant also satisfies:
- (a) either of the following:
- (i) if the applicant was the holder, at the time of application, of:
- (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
- (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
- (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
- (ii) if the applicant resides or proposes to reside in a participating State or Territory; public interest criterion 4007; or
- (b) if paragraph (a) does not apply — public interest criterion 4005.
- 856.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 856.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
- (i) was issued to the applicant by an official source; and
- (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

856.4 Circumstances applicable to grant

- 856.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

856.5 When visa is in effect

- 856.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

856.6 Conditions: Nil.

856.7 Way of giving evidence

856.711 No evidence need be given.

856.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 857 Regional Sponsored Migration Scheme

857.1 Interpretation

857.111 In this Part:

participating State or Territory means a State or Territory specified by the Minister in an instrument in writing for this clause.

regional Australia has the same meaning as in regulation 5.19.

Note 1 For *approved appointment*, see regulation 5.19.

Note 2 For *award course*, see regulation 1.03.

Note 3 For *category A course*, see regulation 1.03.

Note 4 For *category B student*, see regulation 1.03.

Note 4A For *competent English*, see regulation 1.15C.

Note 5 For *diploma*, see subregulation 2.26A (6).

Note 6 For *functional English*, see regulation 5.17.

Note 7 For *IASS agreement*, see regulation 1.16B.

Note 8 For *labour agreement*, see regulation 1.03.

Note 9 For *RHQ agreement*, see regulation 1.16A.

857.2 Primary criteria

Note 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.

857.21 Criteria to be satisfied at time of application

- 857.211 (1) The applicant is not the holder of:
- (a) a visa of one of the following classes:
 - (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);
 - (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV); or
 - (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes:
 - (A) Electronic Travel Authority (Class UD);
 - (B) Long Stay (Visitor) (Class TN);
 - (BA) Maritime Crew (Temporary) (Class ZM);
 - (C) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (D) Short Stay (Visitor) (Class TR);
 - (DA) Superyacht Crew (Temporary) (Class UW);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 456 (Business (Short Stay)) visa.
- 857.212 (1) Subject to subclause (2), the applicant meets the requirements of subclause (3), (5), (6), (7) or (8).

(2) Subclause (1) does not apply to an applicant who does not hold a substantive visa if he or she would have satisfied the requirements of that subclause if the application had been made immediately before his or her substantive visa ceased.

(3) The applicant meets the requirements of this subclause if the applicant holds a qualifying visa within the meaning of subclause (4).

(4) For the purposes of subclause (3), a visa is a qualifying visa if it is:

- (a) a visa of one of the following classes:
 - (i) Business (Temporary) (Class TB);
 - (ii) Cultural/Social (Temporary) (Class TE);
 - (iii) Educational (Temporary) (Class TH);
 - (iv) Family Relationship (Temporary) (Class TL);
 - (v) Interdependency (Temporary) (Class TM);
 - (vi) Medical Practitioner (Temporary) (Class UE);
 - (vii) Special Category (Temporary) (Class TY);
 - (viii) Supported Dependant (Temporary) (Class TW);
 - (ix) Skilled — Independent Regional (Provisional) (Class UX);
 - (x) New Zealand Citizen (Family Relationship) (Temporary) (Class UP);
 - (xi) Skilled (Provisional) (Class VC);
 - (xii) Skilled (Provisional) (Class VF); or
- (b) a Subclass 457 (Business (Long Stay)) visa; or
- (c) a Confirmatory (Temporary) (Class TD) visa granted on the basis that the applicant:
 - (i) had applied for a visa of a class or subclass specified in paragraph (a) or (b), but needed to travel to Australia before a criterion, or criteria, for the grant of that visa had been satisfied; and
 - (ii) subsequently satisfied that criterion or those criteria; or
- (d) a Graduate — Skilled (Temporary) (Class UQ) visa; or

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- (e) a Subclass 161 (Senior Executive (Provisional)) visa; or
 - (f) a Subclass 164 (State/Territory Sponsored Senior Executive (Provisional)) visa.
- (5) The applicant meets the requirements of this subclause if he or she:
- (a) held one or more Group 2.6 (refugee and humanitarian (temporary entry)) entry permits under the Migration (1993) Regulations permitting temporary residence in Australia for a total period of more than 12 months; and
 - (b) is taken to hold a transitional (temporary) visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she held a Group 2.6 (refugee and humanitarian (temporary entry)) entry permit under the Migration (1993) Regulations immediately before 1 September 1994.
- (6) The applicant meets the requirements of this subclause if:
- (a) he or she is the holder of a Student (Temporary) (Class TU) visa granted in relation to an award course at diploma level or above completed by the applicant while he or she was the holder of that visa; or
 - (b) he or she:
 - (i) is the holder of a Group 2.2 (student) entry permit granted under the Migration (1993) Regulations in relation to a formal course, or a category A course, completed by the applicant while the holder of that permit; and
 - (ii) is not a category B student for the purposes of the Migration (1993) Regulations.
- (7) The applicant meets the requirements of this subclause if he or she is the holder of a Working Holiday (Temporary) (Class TZ) visa.
- (8) The applicant is the holder of a Subclass 471 (Trade Skills Training) visa who has completed the apprenticeship for which the visa was granted.

857.212A The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

857.213 Each of the following is satisfied:

- (a) the applicant has been nominated by an employer, in accordance with subregulation 5.19 (4), for an appointment in the business of that employer;
- (b) the applicant
 - (i) in the case of an applicant who is taken, under regulation 2.08CA or 2.08CB, to have applied for an Employer Nomination (Residence) (Class BW) visa:
 - (A) had not turned 45 at the time of the application for a Skilled — New Zealand Citizen (Residence) (Class DB) or Skilled — Independent Overseas Student (Residence) (Class DD) visa; and
 - (B) has vocational English; and
 - (C) has a diploma (within the meaning of subregulation 2.26A (6)), or a higher qualification, that is, unless the appointment is exceptional, relevant to that appointment; or
 - (ia) if the applicant is mentioned in subparagraph 1114A (2) (a) (iii) or (iv) of Schedule 1:
 - (A) the applicant was less than 45 at the time of the application for a Skilled (Residence) (Class VB) visa or a Skilled (Migrant) (Class VE) visa; and
 - (B) the applicant has competent English; and
 - (C) the applicant has a diploma (within the meaning of subregulation 2.26A (6)) or higher qualification that is, unless the appointment is exceptional, relevant to the appointment; or
 - (ii) in any other case:
 - (A) unless exceptional circumstances apply, has not turned 45; and
 - (B) unless exceptional circumstances apply, has functional English; and

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- (C) unless exceptional circumstances apply, has a diploma (within the meaning of subregulation 2.26A (6)) or a higher qualification, that is relevant to the appointment;
- (c) if it is mandatory in Australia that a person:
- (i) hold a licence of a particular kind; or
 - (ii) hold registration of a particular kind; or
 - (iii) be a member (or a member of a particular kind) of a particular professional body;
- to perform tasks of the kind to be performed under the appointment, the applicant is, or is eligible to become, the holder of the licence, the holder of the registration, or a member of the body.
- 857.214 If the appointment is an approved appointment, the period that has elapsed since it became an approved appointment does not exceed 6 months.
- 857.216 If:
- (a) the applicant is the holder of:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa;
- the applicant has substantially complied with the conditions of that visa.

857.22 Criteria to be satisfied at time of decision

857.221 The appointment mentioned in paragraph 857.213 (a):

- (a) has been approved; and
- (b) has not been withdrawn; and
- (c) continues to satisfy the criteria for approval; and
- (d) is still available to the applicant.

Note See regulation 5.19 for the criteria for approval of the appointment.

857.222 The Minister is satisfied that the appointment mentioned in paragraph 857.213 (a) will provide the employment referred to in the relevant employer nomination.

857.223 (1) The applicant satisfies:

- (a) public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — public interest criterion 4019.

(2) The applicant also satisfies:

- (a) either of the following:
 - (i) if the applicant was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
 - (ii) if the applicant resides or proposes to reside in a participating State or Territory; public interest criterion 4007; or
- (b) if paragraph (a) does not apply — public interest criterion 4005.

857.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 857 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and

(b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(1AA) Each member of the family unit of the applicant is a person who also satisfies:

- (a) either of the following:
- (i) if the applicant was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
 - (ii) if the applicant resides or proposes to reside in a participating State or Territory; public interest criterion 4007; or
- (b) if paragraph (a) does not apply — public interest criterion 4005.

(1A) Each member of the family unit of the applicant who is an applicant for a Subclass 857 visa satisfies special return criterion 5010 (whether or not the member has previously been in Australia).

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 857 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) either:
- (i) if:
 - (A) the applicant resides or proposes to reside in a participating State or Territory; or
 - (B) the member was the holder, at the time of application, of:
 - (I) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (II) a Subclass 475 (Skilled — Regional Sponsored) visa; or

(III) a Subclass 487 (Skilled — Regional Sponsored) visa;

satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; or

(ii) in any other case — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

857.226 If a person (in this clause called the *additional applicant*):

(a) is a member of the family unit of the applicant; and

(b) has not turned 18; and

(c) made a combined application with the applicant —

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

857.227 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

857.3 Secondary criteria

Note If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

857.31 Criteria to be satisfied at time of application

857.311 The applicant is a member of the family unit of a person who:

(a) has applied for an Employer Nomination (Residence) (Class BW) visa; and

- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 857.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

857.312 Any nomination given in respect of that other person includes the applicant.

857.313 The applicant satisfies special return criterion 5010 (whether or not the applicant has previously been in Australia).

857.314 If:

- (a) the applicant is the holder of:
- (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was:
- (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iii) a Subclass 487 (Skilled — Regional Sponsored) visa;

the applicant has complied with the conditions of that visa.

857.32 Criteria to be satisfied at time of decision

857.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (*the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 857 visa.

- (3) The applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;has suffered family violence committed by the non-dependent holder.
- (4) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
 - (b) the spouse or de facto partner meets the requirements of subclause (3); and
 - (c) the applicant has made a combined application with the non-dependent holder; and
 - (d) the spouse or de facto partner has been granted a Subclass 857 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

- 857.322 (1) The applicant satisfies:
- (a) public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — public interest criterion 4019.
- (2) The applicant also satisfies:
- (a) if the applicant:
 - (i) resides or proposes to reside in a participating State or Territory; or

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- (ii) was the holder, at the time of application, of:
 - (A) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (B) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (C) a Subclass 487 (Skilled — Regional Sponsored) visa;
- public interest criterion 4007; or
- (b) if paragraph (a) does not apply — public interest criterion 4005.
- 857.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 857.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

857.4 Circumstances applicable to grant

- 857.411 If the applicant:
- (a) was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa at the time of application; or
 - (b) is a member of the family unit of a person who was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa by reason of satisfying the primary criteria for the grant of the visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.
- 857.412 In any other case, the applicant must be in Australia, but not in immigration clearance, when the visa is granted.

857.5 When visa is in effect

857.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

857.6 Conditions: Nil.

857.7 Way of giving evidence

857.711 No evidence need be given.

857.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 858 Distinguished Talent

858.1 Interpretation

Note There are no interpretation provisions specific to this Part.

858.2 Primary criteria

Note 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.

858.21 Criteria to be satisfied at time of application

- 858.211 (1) The applicant is not the holder of:
- (a) a visa of one of the following classes:
 - (i) Electronic Travel Authority (Class UD);
 - (ii) Long Stay (Visitor) (Class TN);
 - (ia) Maritime Crew (Temporary) (Class ZM);
 - (iii) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (iv) Short Stay (Visitor) (Class TR);
 - (iva) Superyacht Crew (Temporary) (Class UW);
 - (vi) Tourist (Class TR);
 - (vii) Visitor (Class TV); or

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- (b) a special purpose visa; or
 - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
- (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
 - (b) the last substantive visa held by the applicant was not:
 - (i) a visa of one of the following classes:
 - (A) Electronic Travel Authority (Class UD);
 - (B) Long Stay (Visitor) (Class TN);
 - (BA) Maritime Crew (Temporary) (Class ZM);
 - (C) Short Stay Sponsored (Visitor) (Class UL) (also known as a Sponsored (Visitor) (Class UL));
 - (D) Short Stay (Visitor) (Class TR);
 - (DA) Superyacht Crew (Temporary) (Class UW);
 - (F) Tourist (Class TR);
 - (G) Visitor (Class TV); or
 - (ii) a special purpose visa; or
 - (iii) a Subclass 456 (Business (Short Stay)) visa.
- 858.212
- (1) The applicant meets the requirements of subclause (2) or (4).
 - (2) The applicant:
 - (a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas:
 - (i) a profession;
 - (ii) a sport;
 - (iii) the arts;
 - (iv) academia and research; and
 - (b) is still prominent in the area; and
 - (c) would be an asset to the Australian community; and
 - (d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and

- (e) produces a completed approved form 1000; and

Note An approved form 1000 requires the applicant's record of achievement in an area (as mentioned in paragraph (a)) to be attested to by:

- (a) an Australian citizen; or
(b) an Australian permanent resident; or
(c) an eligible New Zealand citizen; or
(d) an Australian organisation;

who has a national reputation in relation to the area.

- (f) if the applicant has not turned 18, or is at least 55 years old, at the time of application — would be of exceptional benefit to the Australian community.

(4) The applicant meets the requirements of this subclause if, in the opinion of the Minister, acting on the advice of:

- (a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or
(b) the Director-General of Security;
the applicant has provided specialised assistance to the Australian Government in matters of security.

858.22 Criteria to be satisfied at time of decision

858.221 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
(b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

858.223 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 858 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
(b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

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- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 858 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 858.224 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 858.225 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 858.226 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

858.3 Secondary criteria

Note 1 These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2 For an applicant for a Distinguished Talent (Residence) (Class BX) visa who has not turned 18, subregulation 1.12 (7) sets out a specific definition of *member of the family unit* in addition to the operation of subregulation 1.12 (1). For an applicant who has turned 18, see subregulation 1.12 (1).

858.31 Criteria to be satisfied at time of application

- 858.311 The applicant is a member of the family unit of a person who:
- (a) has applied for a Distinguished Talent (Residence) (Class BX) visa; and
 - (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 858.21;
- and the Minister has not decided to grant or refuse to grant the visa to that other person.
- 858.312 Any sponsorship or nomination given in respect of that other person includes the applicant.

858.32 Criteria to be satisfied at time of decision

- 858.321 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (*the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 858 visa.
- (3) The applicant meets the requirements of this subclause if:
- (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
 - (b) the relationship between the non-dependent holder and the applicant has ceased; and
 - (c) one or more of the following:
 - (i) the applicant;
 - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
 - (iii) a dependent child of the applicant or of the non-dependent holder;has suffered family violence committed by the non-dependent holder.

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- (4) The applicant meets the requirements of this subclause if:
- (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
 - (b) the spouse or de facto partner meets the requirements of subclause (3); and
 - (c) the applicant has made a combined application with the non-dependent holder; and
 - (d) the spouse or de facto partner has been granted a Subclass 858 visa.

Note For special provisions relating to family violence, *see* Division 1.5.

858.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

858.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

858.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

858.4 Circumstances applicable to grant

858.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

858.5 When visa is in effect

858.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

858.6 Conditions: Nil.

858.7 Way of giving evidence

858.711 No evidence need be given.

858.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 859 Designated Parent

859.1 Interpretation

Note *aged parent*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, and *balance of family test* is defined in regulation 1.05. There are no interpretation provisions specific to this Part.

859.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

859.21 Criteria to be satisfied at time of application

859.211 The applicant is nominated for the grant of the visa by a child of the applicant who:

- (a) has turned 18; and
- (b) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen.

859.212 (1) The applicant:

- (a) is an aged parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
- (b) made a valid application for a Parent (Residence) (Class BP) visa in the period from 1 November 1998 to the end of 30 March 1999.

(2) A decision to grant, or to refuse to grant, the Parent (Residence) (Class BP) visa was not made in that period.

(3) The application for the Parent (Residence) (Class BP) visa has not been withdrawn.

859.22 Criteria to be satisfied at time of decision

- 859.221 The applicant is an aged parent of the Australian citizen, Australian permanent resident or eligible New Zealand citizen referred to in clause 859.211.
- 859.222 The applicant continues to satisfy the criterion in clause 859.211.
- 859.223 The applicant satisfies the balance of family test.
- 859.224 The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.
- 859.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 859.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 859 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 859 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 859.227 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

859.3 Secondary criteria

Note If a person satisfies the primary criteria, members of the family unit of that person are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

859.31 Criteria to be satisfied at time of application

859.311 The applicant is a member of the family unit of an applicant for a Subclass 859 visa mentioned in clause 859.212, and the Minister has not decided to grant or refuse to grant the visa to that other applicant.

859.32 Criteria to be satisfied at time of decision

859.321 The person referred to in clause 859.311 of whom the applicant is the spouse or de facto partner, or of whose family unit the applicant is a member, is the holder of a Subclass 859 visa, having satisfied the primary criteria.

859.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

859.323 The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of the Department of Family and Community Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

859.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

859.4 Circumstances applicable to grant

859.411 The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge (if any) must be paid before the visa can be granted.

859.5 When visa is in effect

859.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

859.6 Conditions: Nil.

859.7 Way of giving evidence

859.711 Visa label affixed to a passport.

Subclass 861 Skilled — Onshore Independent New Zealand Citizen

861.1 Interpretation

861.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can *complete* a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and *diploma* have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

Note 2 For *vocational English*, see regulation 1.15B.

861.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

861.21 Criteria to be satisfied at time of application

- 861.210 The application must be made before 1 September 2007.
- 861.212 The applicant has nominated a skilled occupation in his or her application.
- 861.213 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:
- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made; or
 - (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 24 months in the period of 36 months immediately before the day on which the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;

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- (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

861.214 The applicant is in Australia and is the holder of a Subclass 444 (Special Category) visa.

861.22 Criteria to be satisfied at time of decision

- 861.221 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
- 861.222 If the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.
- 861.223 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.
- Note* That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).
- 861.224 The applicant has vocational English.
- 861.225 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 is false or misleading in a material particular.
- 861.226 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 861.227 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 861.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 861 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.

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- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 861 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 861.230 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 861.231 Approval of the application would not result in either:
- (a) the number of Subclass 861 visas granted in a financial year exceeding the maximum number of Subclass 861 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 861) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 861.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

861.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

861.31 Criteria to be satisfied at time of application

861.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 861.21.

861.32 Criteria to be satisfied at time of decision

861.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 861 visa.

861.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

861.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

861.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

861.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

861.4 Circumstances applicable to grant

861.411 The applicant must be in Australia when the visa is granted.

861.5 When visa is in effect

861.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

861.6 Conditions: Nil.

861.7 Way of giving evidence

861.711 No evidence need be given.

861.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 862 Skilled — Onshore
Australian-sponsored New
Zealand Citizen**

862.1 Interpretation

862.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can *complete* a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree and *diploma* have the meanings given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

Note 2 For *vocational English*, see regulation 1.15B.

862.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

862.21 Criteria to be satisfied at time of application

862.210 The application must be made before 1 September 2007.

862.211 The applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 862 visa, has one of the following relationships to a person (the *sponsor*) who has turned 18 and is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen:

- (a) a parent;
- (b) a child or a step-child who is not a dependent child of the sponsor;
- (c) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
- (ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
- (d) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece.

862.212 The applicant is sponsored by the sponsor.

862.215 The applicant has nominated a skilled occupation in his or her application.

862.216 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:

- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made; or
- (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 24 months in the

period of 36 months immediately before the day on which the application was made.

- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
- (b) each of the following subparagraphs applies in relation to the applicant:
- (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;
 - (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;

- (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
- (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
- (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
- (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.

862.217 The applicant is in Australia and is the holder of a Subclass 444 (Special Category) visa.

862.22 Criteria to be satisfied at time of decision

862.221 The sponsorship referred to in clause 862.212 has been approved by the Minister and is still in force.

862.223 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

862.224 If the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.

862.225 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are

provided for in Division 2.2 (regulation 2.26A), and Schedule 6A, of these Regulations. In certain circumstances, attributes of the spouse or de facto partner of an applicant may be taken into account (regulation 2.27A). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

- 862.226 The applicant has vocational English.
- 862.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 is false or misleading in a material particular.
- 862.228 If the applicant does not satisfy the criteria in clauses 862.223, 862.224, 862.226 and 862.227:
- (a) the applicant satisfies the criterion specified in clause 862.225 because of regulation 2.27A; and
 - (b) the applicant's spouse or de facto partner:
 - (i) continues to satisfy the criteria in each of clauses 862.214, 862.215 and 862.216; and
 - (ii) satisfies the criteria in clauses 862.223, 862.224, 862.226 and 862.227.
- 862.229 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 862.230 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 862.231 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 862 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 862 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

862.232 If a person (in this clause called the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

862.233 Approval of the application would not result in either:

- (a) the number of Subclass 862 visas granted in a financial year exceeding the maximum number of Subclass 862 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 862) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.

862.234 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

862.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

862.31 Criteria to be satisfied at time of application

862.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 862.21.

862.312 The sponsorship referred to in clause 862.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

862.32 Criteria to be satisfied at time of decision

862.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 862 visa.

862.322 The sponsorship referred to in clause 862.312 has been approved by the Minister and is still in force.

862.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

862.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

862.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

862.327 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

862.4 Circumstances applicable to grant

862.411 The applicant must be in Australia when the visa is granted.

862.5 When visa is in effect

862.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

862.6 Conditions: Nil.

862.7 Way of giving evidence

862.711 No evidence need be given.

862.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 863 Skilled — Onshore Designated
Area-sponsored New Zealand
Citizen**

863.1 Interpretation

863.111 In this Part:

completed, in relation to a degree, diploma or trade qualification, means having met the academic requirements for its award.

Note The academic requirements for the award of a degree, diploma or trade qualification do not include the formal conferral of the degree, diploma or trade qualification. Therefore, a person can *complete* a degree, diploma or trade qualification, for this clause, before the award is formally conferred.

course of study has the meaning given by subregulation 2.26A (7A).

degree has the meaning given in subregulation 2.26A (6).

designated area means an area specified by an instrument in writing under item 6701 in Schedule 6 as a designated area.

diploma has the meaning given in subregulation 2.26A (6).

employed has the meaning given in subregulation 2.26A (7).

trade qualification has the meaning given in subregulation 2.26A (6).

Note 1 For *relevant assessing authority* and *skilled occupation*, see regulation 1.03.

Note 2 For *vocational English*, see regulation 1.15B.

863.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

863.21 Criteria to be satisfied at time of application

863.210 The application must be made before 1 September 2007.

863.211 The applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 863 visa, has one of the following relationships to a person (the *sponsor*) who has turned 18 and is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen:

- (a) a parent;
- (b) a child or a step-child who is not a dependent child of the sponsor;
- (c) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
- (ca) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;
- (d) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
- (e) a grandchild or first cousin.

863.212 The applicant is sponsored by the sponsor.

863.213 The sponsor:

- (a) is resident in a designated area; and
- (b) was resident in one or other of the designated areas throughout the period of 12 months immediately before Immigration receives the relevant sponsorship (except for short absences for the purposes of business or recreation).

863.216 The applicant has nominated a skilled occupation in his or her application.

863.217 (1) Subject to subclause (2), the applicant has been employed in a skilled occupation:

- (a) if 60 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 6 months in the period of 12 months immediately before the day on which the application was made; or
 - (b) if 40 or 50 points are specified by an instrument in writing for this paragraph as available for the skilled occupation nominated in the application — for a period of, or for periods totalling, at least 12 months in the period of 18 months immediately before the day on which the application was made.
- (2) Subclause (1) does not apply to an applicant if:
- (a) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the applicant was present in Australia;
 - (ii) the degree, diploma or trade qualification is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (iii) all instruction for that degree, diploma or trade qualification was conducted in English; or
 - (b) each of the following subparagraphs applies in relation to the applicant:
 - (i) the applicant has, in the 6 months immediately before the day on which the application is made, completed a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia;

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- (ii) before completing that degree, diploma or trade qualification, the applicant completed at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;
 - (iii) the 2 or more degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) were completed as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;
 - (iv) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was completed at the institution at which it was commenced;
 - (v) each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) is relevant to the skilled occupation nominated by the applicant in his or her application;
 - (vi) all instruction for each of the degrees, diplomas or trade qualifications mentioned in subparagraphs (i) and (ii) was conducted in English.
- 863.219 The applicant is in Australia and is the holder of a Subclass 444 (Special Category) visa.
- 863.22 Criteria to be satisfied at time of decision**
- 863.221 The sponsorship referred to in clause 863.212 has been approved by the Minister and is still in force.
- 863.222 The sponsor is still resident in a designated area.
- 863.224 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

- 863.225 If the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 was made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full-time study of a registered course.
- 863.226 Either the applicant has vocational English, or:
- (a) he or she has proficiency in English of at least the standard required for the award of 10 points for the language skill factor of the general points test specified in item 6311 of Schedule 6; and
 - (b) his or her sponsor lives in a State or Territory specified by an instrument in writing for this paragraph as a State or Territory in which arrangements are established for suitable English-language training for applicants to whom this paragraph applies; and
 - (c) the Minister is satisfied that he or she has paid any fee or charge for that training.
- 863.227 No evidence has become available since the time of application that the information given or used as part of the assessment mentioned in paragraph 1128D (3) (e) of Schedule 1 is false or misleading in a material particular.
- 863.228 Despite clauses 863.224, 863.225, 863.226 and 863.227, the applicant satisfies the criteria in each of those clauses if:
- (a) the applicant satisfied the criteria in clause 863.218 at the time of application; and
 - (b) the applicant's spouse or de facto partner continues to satisfy the criteria in each of clauses 863.215, 863.216 and 863.217; and
 - (c) the applicant's spouse or de facto partner satisfies the criteria in each of clauses 863.224, 863.225, 863.226 and 863.227.
- 863.229 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 863.230 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

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- 863.231 Each member of the family unit of the applicant who is an applicant for a Subclass 863 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 863.232 Each member of the family unit of the applicant who is not an applicant for a Subclass 863 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 863.233 If a person (in this clause called the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 863.234 Approval of the application would not result in either:
- (a) the number of Subclass 863 visas granted in a financial year exceeding the maximum number of Subclass 863 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 863) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 863.235 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or

- (b) it would be unreasonable to require the applicant to be the holder of a passport.

863.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

863.31 Criteria to be satisfied at time of application

- 863.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 863.21.
- 863.312 The sponsorship referred to in clause 863.212 in respect of the person who satisfies the primary criteria includes sponsorship of the applicant.

863.32 Criteria to be satisfied at time of decision

- 863.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 863 visa.
- 863.322 The sponsorship referred to in clause 863.312 has been approved by the Minister and is still in force.
- 863.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 863.325 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.
- 863.326 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 863.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

863.4 Circumstances applicable to grant

863.411 The applicant must be in Australia when the visa is granted.

863.5 When visa is in effect

863.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

863.6 Conditions: Nil.

863.7 Way of giving evidence

863.711 No evidence need be given.

863.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 864 Contributory Aged Parent

864.1 Interpretation

864.111 In this Part, a reference to an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa means a person:

- (a) who, at the time of application, holds a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
- (b) who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
- (c) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to have been the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application.

Note Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent visa and settled are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5 (1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see

regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

864.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

864.21 Criteria to be satisfied at time of application

- 864.211 (1) The applicant:
- (a) is the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) is a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (c) satisfies criterion 3002.
- (2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 864 (Contributory Aged Parent) visa.
- 864.212 The applicant is:
- (a) the aged parent of a person (the *child*) who is:
 - (i) a settled Australian citizen; or
 - (ii) a settled Australian permanent resident; or
 - (iii) a settled eligible New Zealand citizen; or
 - (ab) the holder of a substituted Subclass 676 visa, and is the parent of a person (the *child*) who is:
 - (i) a settled Australian citizen; or
 - (ii) a settled Australian permanent resident; or
 - (iii) a settled eligible New Zealand citizen; or
 - (b) a person who:
 - (i) either:

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- (A) is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; or
- (B) both:
- (I) was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
- (II) is the holder of a substituted Subclass 676 visa at the time of application; and
- (ii) is no longer the parent of a child described in paragraph (a) or (ab) because the child has died; and
- (iii) is not the parent of another child described in paragraph (a) or (ab).
- 864.213 (1) The applicant is:
- (a) sponsored in accordance with subclause (2) or (3); or
- (b) taken, under subclause (4), to be sponsored in accordance with this clause.
- (2) If the child has turned 18, the applicant is sponsored by:
- (a) the child; or
- (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
- (i) has turned 18; and
- (ii) is:
- (A) a settled Australian citizen; or
- (B) a settled Australian permanent resident; or
- (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
- (a) the child's cohabiting spouse, if the spouse:
- (i) has turned 18; and
- (ii) is:
- (A) a settled Australian citizen; or
- (B) a settled Australian permanent resident; or
- (C) a settled eligible New Zealand citizen; or

- (b) a person who:
 - (i) is a close relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a close relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (d) a community organisation.
- (4) The applicant is taken to be sponsored in accordance with this clause if:
- (a) the applicant:
 - (i) is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; or
 - (ii) both:
 - (A) was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
 - (B) is the holder of a substituted Subclass 676 visa at the time of application; and
 - (b) the person who sponsored the applicant for the Subclass 884 (Contributory Aged Parent (Temporary)) visa dies before the Subclass 884 (Contributory Aged Parent (Temporary)) visa ceases to be in effect; and
 - (c) there is no other sponsor available who could meet the requirements set out in subclause (2) or (3).

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- 864.214 For an applicant who, at the time of application, is neither:
- (a) the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; nor
 - (b) the holder of a substituted Subclass 676 visa;
- the applicant satisfies the balance of family test.

864.22 Criteria to be satisfied at time of decision

864.221 The applicant continues to meet the requirements set out in clause 864.212.

864.222 If a sponsorship of the kind mentioned in subclause 864.212 (2) or (3) was in force in relation to the applicant at the time of application, a sponsorship of that kind, approved by the Minister, is in force in relation to:

- (a) the sponsor at the time of application; or
- (b) another sponsor who meets the requirements set out in subclause 864.212 (2) or (3);

whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in subclause 864.212 (2) or (3).

864.222A If clause 864.222 does not apply:

- (a) the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; and
- (b) a sponsor of the applicant who usually resides in Australia dies before a decision is made to grant, or to refuse to grant, the Subclass 864 (Contributory Aged Parent) visa; and
- (c) there is no other sponsor available who meets the requirements set out in subclause 864.212 (2) or (3).

864.223 If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the criteria mentioned for the applicant in the item in the table that relates to the applicant.

	Item	If the applicant was ...	the criteria to be satisfied by the applicant are ...
	1	not the holder of a substituted Subclass 676 visa at the time of application	public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4019
	2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4009, 4010 and 4019; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate
864.224		If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant:	
	(a)	satisfies public interest criteria 4001, 4002 and 4003; and	
	(aa)	if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and	
	(b)	has undergone any health checks that the Minister considers appropriate.	
864.225		If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.	
864.226		The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.	
864.227		If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is an applicant for a Subclass 864 (Contributory Aged Parent) visa:	
	(a)	must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and	

- (b) if the member of the family unit has previously been in Australia — must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4009 and 4010; and (b) either: (i) 4007; or (ii) if the member of the family unit has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate; and (c) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010

864.228 If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is not an applicant for a Subclass 864 (Contributory Aged Parent) visa must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	<ul style="list-style-type: none"> (a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 676 visa at the time of application	<ul style="list-style-type: none"> (a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

864.229 If a person (the **additional applicant**):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

864.230 If the applicant has previously made a valid application for another parent visa:

- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
- (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or

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- (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.
- 864.231 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

864.3 Secondary criteria

864.31 Criteria to be satisfied at time of application

- 864.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 864.21.

864.312 One of the following applies:

- (a) the sponsorship mentioned in subclause 864.213 (2) or (3) of the person who satisfies the primary criteria includes sponsorship of the applicant;
- (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 864.213 (4);
- (c) the applicant is a contributory parent newborn child who was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application and:
 - (i) the contributory parent newborn child's parent was granted a Subclass 864 (Contributory Aged Parent) visa on the basis of meeting paragraph 864.222 (b); or
 - (ii) the person who sponsored the contributory parent newborn child's parent for the Subclass 864 (Contributory Aged Parent) visa died after that visa was granted.

864.32 Criteria to be satisfied at time of decision

864.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 864 (Contributory Aged Parent) visa.

864.322 One of the following applies:

- (a) the sponsorship, mentioned in paragraph 864.222 (a), that includes sponsorship of the applicant:
 - (i) has been approved by the Minister in relation to the applicant; and
 - (ii) is still in force in relation to the applicant;
- (b) the person who satisfied the primary criteria at the time of decision met the requirements of paragraph 864.222 (b) at the time of decision, and the applicant meets those requirements at the time of decision;
- (c) the applicant is a contributory parent newborn child who meets the requirements of paragraph 864.312 (c).

- 864.323 The applicant:
- (a) satisfies public interest criteria 4001, 4002 and 4003; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

864.324 If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 864.321, and the person was ...	the public interest criteria to be satisfied by the applicant are ...
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1	not the holder of a substituted Subclass 676 visa at the time of application	4004, 4005, 4009 and 4010
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2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate
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864.325 If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

864.326 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

864.327 The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the

Secretary of the Department of Family and Community Services; or

- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of the Department of Family and Community Services.

864.328 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

864.329 If the applicant has previously made a valid application for another parent visa:

- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
- (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);
the applicant has withdrawn all applications for the review or review proceedings.

864.330 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source;
and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

864.4 Circumstances applicable to grant

864.411 The applicant must be in Australia, but not in immigration clearance when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

864.5 When visa is in effect

864.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

864.6 Conditions: Nil.

864.7 Way of giving evidence

864.711 No evidence need be given.

864.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 866 Protection

866.1 Interpretation

866.111 In this Part:

Refugees Convention means the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees.

866.112 For the purposes of this Part, a person (**A**) is a member of the same family unit as another person (**B**) if:

- (a) A is a member of B's family unit; or
- (b) B is a member of A's family unit; or
- (c) A and B are members of the family unit of a third person.

866.2 Primary criteria

Note All applicants must satisfy the primary criteria.

866.21 Criteria to be satisfied at time of application

866.211 The applicant claims to be a person to whom Australia has protection obligations under the Refugees Convention and:

- (a) makes specific claims under the Refugees Convention; or
- (b) claims to be a member of the same family unit as a person (the *claimant*) who:
 - (i) has made specific claims under the Refugees Convention; and
 - (ii) is an applicant for a Protection (Class XA) visa.

866.22 Criteria to be satisfied at time of decision

866.221 The Minister is satisfied that the applicant is a person to whom Australia has protection obligations under the Refugees Convention.

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- 866.222 In the case of an applicant referred to in paragraph 866.211 (b):
- (a) the Minister is satisfied that the applicant is a member of the same family unit as a claimant referred to in that paragraph; and
 - (b) that claimant has been granted a Protection (Class XA) visa.
- 866.223 The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
 - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.
- 866.224 The applicant:
- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
 - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
 - (c) is a person:
 - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
 - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
 - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- 866.224A A relevant medical practitioner:
- (a) has considered:

- (i) the results of any tests carried out for the purposes of the medical examination required under clause 866.223; and
 - (ii) the radiological report (if any) required under clause 866.224 in respect of the applicant; and
 - (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.
- 866.224B If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.
- 866.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002 and 4003A; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 866.226 The Minister is satisfied that the grant of the visa is in the national interest.
- 866.227 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if the applicant, or a member of the family unit of the applicant, is not a person who has been offered a temporary stay in Australia by the Australian Government for the purpose of an application for a Temporary Safe Haven (Class UJ) visa as provided for in regulation 2.07AC.

(3) The applicant meets the requirements of this subclause if section 91K of the Act does not apply to the applicant's application because of a determination made by the Minister under subsection 91L (1) of the Act.

- 866.230 If the applicant is a child referred to in paragraph 2.08 (1) (b):
- (a) the applicant is a member of the same family unit as a claimant mentioned in paragraph 866.211 (b); and
 - (b) the claimant has been granted a Subclass 866 (Protection) visa.
- 866.231 The applicant has not been made an offer of a permanent stay in Australia as described in item 3 or 4 of the table in subregulation 2.07AQ (3).
- 866.232 The applicant does not hold a Resolution of Status (Class CD) visa.

866.3 Secondary criteria

Note All applicants must satisfy the primary criteria.

866.4 Circumstances applicable to grant

- 866.411 The applicant must be in Australia.

866.5 When visa is in effect

- 866.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

866.6 Conditions: Nil.

866.7 Way of giving evidence

- 866.711 No evidence need be given.
- 866.712 If evidence is given, to be given by a label affixed to a valid passport, valid Convention travel document or an approved form.

Subclass 880 Skilled — Independent Overseas Student

880.1 Interpretation

Note 1 For *vocational English*, see regulation 1.15B.

Note 2 There are no interpretation provisions specific to this Part.

880.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

880.21 Criteria to be satisfied at time of application

880.210 The application must be made before 1 September 2007.

880.211 The Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.

880.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

880.213 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (B) of Schedule 1;
- (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (C) of Schedule 1.

880.214 The Minister is satisfied that the applicant's declaration under paragraph 1128CA (3) (l) of Schedule 1 is true.

880.215 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128CA (3) (l) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant in his or her application.

880.216 If a declaration was required to be made for paragraph 1128CA (3) (m) or (ma) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

880.22 Criteria to be satisfied at time of decision

880.221 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

880.222 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (see regulation 2.26A), and Schedule 6A, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

880.222A In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:

- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
- (b) complied with the conditions of that visa.

880.223 The applicant has vocational English.

- 880.224 No evidence has become available since the time of application that the information given to satisfy Subdivision 880.21, or to meet the requirements of item 1128CA of Schedule 1, was false or misleading in a material particular.
- 880.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 880.227 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 880 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 880 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 880.228 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 880.229 Approval of the application would not result in either:
- (a) the number of Subclass 880 visas granted in a financial year exceeding the maximum number of Subclass 880 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 880) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.

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- 880.230 (1) A relevant assessing authority has assessed the skills of the applicant as suitable for his or her nominated skilled occupation, and no evidence has become available that the information given or used as part of the assessment of the applicant's skills is false or misleading in a material particular.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.
- 880.231 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 880.232 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

880.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

880.31 Criteria to be satisfied at time of application

- 880.311 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 880.312 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;

- (b) a medical practitioner approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (B) of Schedule 1;
- (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128CA (3) (d) (i) (C) of Schedule 1.

880.313 If a declaration was required to be made for paragraph 1128CA (3) (m) or (ma) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

880.32 Criteria to be satisfied at time of decision

880.321 The applicant is a member of the family unit of, and made a combined application with, a person who, having satisfied the primary criteria, is the holder of a Subclass 880 visa.

880.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

880.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

880.325 If an applicant is at least 16 years old — an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

880.326 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

880.4 Circumstances applicable to grant

880.411 The applicant must be in Australia when the visa is granted.

880.5 When visa is in effect

880.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

880.6 Conditions: Nil.

880.7 Way of giving evidence

880.711 No evidence need be given.

880.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 881 Skilled — Australian-sponsored Overseas Student

881.1 Interpretation

Note 1 For *vocational English*, see regulation 1.15B.

Note 2 There are no interpretation provisions specific to this Part.

881.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

881.21 Criteria to be satisfied at time of application

881.210 The application must be made before 1 September 2007.

881.211 The Minister is satisfied that the applicant's declaration under paragraph 1128BA (3) (i) of Schedule 1 is true.

881.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.

881.213 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;

(c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.

881.214 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128BA (3) (ja) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant in his or her application.

881.215 The Minister is satisfied that the applicant is sponsored by a person who meets the requirements set out in paragraph 1128BA (3) (l) of Schedule 1.

881.216 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

881.22 Criteria to be satisfied at time of decision

881.221 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.

881.223 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).

881.224 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2.2 (regulation 2.26A), and Schedule 6A, of these Regulations. In certain circumstances, attributes of the spouse or de facto partner of an applicant may be taken into account (regulation 2.27A). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (Act, section 96).

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- 881.224A In determining whether the applicant satisfies a criterion that he or she has been employed in a skilled occupation for a certain period, a period of employment in Australia must not be counted unless the applicant:
- (a) held:
 - (i) a substantive visa; or
 - (ii) a Subclass 010 Bridging A visa; or
 - (iii) a Subclass 020 Bridging B visa;authorising him or her to work during that period; and
 - (b) complied with the conditions of that visa.
- 881.225 The applicant has vocational English.
- 881.226 No evidence has become available since the time of application that the information given to satisfy Subdivision 881.21, or to meet the requirements of item 1128BA of Schedule 1, was false or misleading in a material particular.
- 881.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 881.229 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 881 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 881 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 881.230 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

- 881.231 Approval of the application would not result in either:
- (a) the number of Subclass 881 visas granted in a financial year exceeding the maximum number of Subclass 881 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 881) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 881.232 (1) A relevant assessing authority has assessed the skills of the applicant, or the applicant's spouse or de facto partner, as suitable for his or her nominated skilled occupation, and no evidence has become available that the information given or used as part of the assessment of the applicant's skills is false or misleading in a material particular.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.
- 881.233 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.
- 881.234 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

881.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

881.31 Criteria to be satisfied at time of application

- 881.311 The applicant is a member of the family unit of, and made a combined application with, a person who seeks to satisfy the primary criteria.
- 881.312 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 881.313 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.
- 881.314 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

881.32 Criteria to be satisfied at time of decision

- 881.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 881 visa.
- 881.322 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.
- 881.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 881.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 881.326 If the applicant is at least 16 years old, an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

- 881.327 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

881.4 Circumstances applicable to grant

- 881.411 The applicant must be in Australia when the visa is granted.

881.5 When visa is in effect

- 881.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

881.6 Conditions: Nil.

881.7 Way of giving evidence

- 881.711 No evidence need be given.
- 881.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 882 Skilled — Designated Area-sponsored Overseas Student

882.1 Interpretation

Note 1 For *vocational English*, see regulation 1.15B.

Note 2 There are no interpretation provisions specific to this Part.

882.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

882.21 Criteria to be satisfied at time of application

- 882.210 The application must be made before 1 September 2007.
- 882.211 The Minister is satisfied that the applicant's declaration under paragraph 1128BA (3) (i) of Schedule 1 is true.
- 882.212 The Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 882.213 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.
- 882.214 The Minister is satisfied that each of the degrees, diplomas or trade qualifications mentioned in subparagraph 1128BA (3) (ja) (i) or (ii) of Schedule 1 is relevant to the skilled occupation nominated by the applicant in his or her application.
- 882.215 The Minister is satisfied that the applicant is sponsored by a person who meets the requirements set out in paragraphs 1128BA (3) (l) and (m) of Schedule 1.
- 882.216 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

882.22 Criteria to be satisfied at time of decision

- 882.221 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.
- 882.222 The sponsor is still resident in a designated area.
- 882.224 If regulation 2.27B applies, the applicant provides, for the purposes of the application, the assessment of his or her skills mentioned in subregulation 2.27B (4).
- 882.225 Either the applicant has vocational English, or:
- (a) has proficiency in English of at least the standard required for the award of 10 points for the language skill factor of the general points test specified in item 6311 of Schedule 6; and
 - (b) his or her sponsor lives in a State or Territory specified by an instrument in writing for this paragraph as a State or Territory in which arrangements are established for suitable English-language training for applicants to whom this paragraph applies; and
 - (c) the Minister is satisfied that he or she has paid any fee or charge for that training.
- 882.226 No evidence has become available since the time of application that the information given to satisfy Subdivision 882.21, or to meet the requirements of item 1128BA of Schedule 1, was false or misleading in a material particular.
- 882.228 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 882.229 Each member of the family unit of the applicant who is an applicant for a Subclass 882 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 882.230 Each member of the family unit of the applicant who is not an applicant for a Subclass 882 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

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- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 882.231 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant —
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 882.232 Approval of the application would not result in either:
- (a) the number of Subclass 882 visas granted in a financial year exceeding the maximum number of Subclass 882 visas, as determined by an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 882) granted in a financial year exceeding the maximum number of visas of those classes, as determined by an instrument in writing for this paragraph, that may be granted in that financial year.
- 882.233 (1) A relevant assessing authority has assessed the skills of the applicant, or the applicant's spouse or de facto partner, as suitable for his or her nominated skilled occupation, and no evidence has become available that the information given or used as part of the assessment of the applicant's skills is false or misleading in a material particular.
- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of full time study of a registered course.
- 882.234 An Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

- 882.235 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

882.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

882.31 Criteria to be satisfied at time of application

- 882.311 The applicant is a member of the family unit of, and made a combined application with, a person who seeks to satisfy the primary criteria.
- 882.312 If the applicant is at least 16 years old — the Minister is satisfied that the applicant has applied for an Australian Federal Police check in relation to the applicant during the 12 months immediately before the day when the application is made.
- 882.313 The Minister is satisfied that the applicant has undergone a medical examination, for the purpose of the application, carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
 - (b) a medical practitioner approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (B) of Schedule 1;
 - (c) a medical practitioner employed by an organisation approved by the Minister for sub-subparagraph 1128BA (3) (c) (i) (C) of Schedule 1.
- 882.314 If a declaration was required to be made for paragraph 1128BA (3) (p) or (pa) of Schedule 1 in relation to the applicant, the Minister is satisfied that declaration is true.

882.32 Criteria to be satisfied at time of decision

882.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 882 visa.

882.322 The sponsorship given with the applicant's application under paragraph 1128BA (3) (k) of Schedule 1 has been approved by the Minister and is still in force.

882.324 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

882.325 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

882.326 If the applicant is at least 16 years old — an Australian Federal Police check undertaken in the past 12 months in relation to the applicant has been provided to the Minister.

882.327 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source;
and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

882.4 Circumstances applicable to grant

882.411 The applicant must be in Australia when the visa is granted.

882.5 When visa is in effect

882.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

882.6 Conditions: Nil.

882.7 Way of giving evidence

882.711 No evidence need be given.

882.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 883 Skilled — Designated Area-sponsored (Residence)

883.1 Interpretation

883.111 In this Part:

designated area means an area specified by an instrument in writing under item 6701 in Schedule 6 as a designated area.

Note For *vocational English*, see regulation 1.15B.

883.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

883.21 Criteria to be satisfied at time of application

883.210 The application must be made before 1 September 2007.

883.211 The applicant is sponsored by a person (the *sponsor*):

- (a) who is 18 or more; and
- (b) who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
- (c) to whom the applicant, or the applicant's spouse or de facto partner, if the applicant's spouse or de facto partner is an applicant for a Subclass 883 visa, has 1 of the following relationships:
 - (i) a parent;
 - (ii) a child or a step-child who is not a dependent child of the sponsor;
 - (iii) a brother or sister, an adoptive brother or sister or a step-brother or step-sister;
 - (iv) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle;

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- (v) a nephew or niece, an adoptive nephew or niece or a step-nephew or step-niece;
 - (vi) a grandchild or first cousin.
- 883.212 The applicant must have lived in a designated area for a total of at least 2 years while being the holder of:
- (a) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (b) a Bridging A (Class WA) visa or a Bridging B (Class WB) visa granted because the applicant made a valid application for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.
- 883.213 The applicant must have undertaken a total of at least 12 months full time work in a designated area while being the holder of:
- (a) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (b) a Bridging A (Class WA) visa or a Bridging B (Class WB) visa granted because the applicant made a valid application for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa.
- 883.22 Criteria to be satisfied at time of decision**
- 883.221 The sponsorship given with the applicant's application under paragraph 1134 (3) (f) of Schedule 1 has been approved by the Minister and is still in force.
- 883.222 The applicant has vocational English.
- 883.223 No evidence has become available that the information given or used as part of the assessment of eligibility of the applicant for a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa is false or misleading in a material particular.
- 883.225 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010.
- 883.226 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

- 883.227 The applicant, and all of the applicants included in the application, have complied with the conditions of any Skilled — Designated Area-sponsored (Provisional) (Class UZ) visas held.
- 883.228 Each member of the family unit of the applicant who is an applicant for a Skilled — Designated Area-sponsored (Residence) (Class CC) visa is a person who:
- (a) either:
 - (i) if, at the time of the application, the member of the family unit was the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; or
 - (ii) in any other case — satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia, satisfies special return criteria 5001, 5002 and 5010.
- 883.229 Each member of the family unit of the applicant who is not an applicant for a Skilled — Designated Area-sponsored (Residence) (Class CC) visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) if, at the time of the application, the member of the family unit was not the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion; and
 - (c) if, at the time of application, the member of the family unit was the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

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- 883.230 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is under 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 883.231 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

883.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

883.31 Criteria to be satisfied at time of application

- 883.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 883.21.
- 883.312 The sponsorship given for the person who satisfies the primary criteria under paragraph 1134 (3) (f) of Schedule 1 includes sponsorship of the applicant.

883.32 Criteria to be satisfied at time of decision

- 883.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Skilled — Designated Area-sponsored (Residence) (Class CC) visa.
- 883.322 The sponsorship referred to in clause 883.312 has been approved by the Minister and is still in force.

- 883.324 The applicant satisfies:
- (a) either:
 - (i) if the applicant was, at the time of application, the holder of a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa — public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; or
 - (ii) in any other case — public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
 - (b) if he or she has previously been in Australia — special return criteria 5001, 5002 and 5010.
- 883.325 If the applicant is under 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 883.326 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

883.4 Circumstances applicable to grant

- 883.411 Applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

883.5 When visa is in effect

- 883.511 Permanent visa permitting the holder to travel to, enter and remain in Australia for a period of 5 years from the date of grant.

883.6 Conditions: Nil.

883.7 Way of giving evidence

883.711 No evidence need be given.

883.712 If evidence is given, to be given by a label affixed to a valid passport.

**Subclass 884 Contributory Aged Parent
(Temporary)**

884.1 Interpretation

Note Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent visa and settled are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5 (1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

884.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

884.21 Criteria to be satisfied at time of application

- 884.211 (1) The applicant:
- (a) is the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
 - (b) is a person who:
 - (i) is not the holder of a substantive visa; and
 - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
 - (c) satisfies criterion 3002.

(2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 884 (Contributory Aged Parent (Temporary)) visa.

- 884.212 (1) The applicant is:
- (a) either:
 - (i) the aged parent of a person (the *child*) who is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (ii) the holder of a substituted Subclass 676 visa and the parent of a person (the *child*) who is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; and
 - (b) sponsored in accordance with subclause (2) or (3).
- (2) If the child has turned 18, the applicant is sponsored by:
- (a) the child; or
 - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
- (a) the child's cohabiting spouse, if the spouse:
 - (i) has turned 18; and
 - (ii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or

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- (b) a person who:
 - (i) is a close relative or guardian of the child; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (c) if the child has a cohabiting spouse but the spouse has not turned 18 — a person who:
 - (i) is a close relative or guardian of the child's spouse; and
 - (ii) has turned 18; and
 - (iii) is:
 - (A) a settled Australian citizen; or
 - (B) a settled Australian permanent resident; or
 - (C) a settled eligible New Zealand citizen; or
 - (d) a community organisation.

884.213 If the applicant is not the holder of a substituted Subclass 676 visa, the applicant satisfies the balance of family test.

884.22 Criteria to be satisfied at time of decision

884.221 The applicant continues to satisfy the criterion in subclause 884.212 (1).

884.222 A sponsorship of the kind mentioned in clause 884.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 884.212.

884.224 The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010; and (b) if the applicant had turned 18 at the time of application — 4019
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

884.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

884.226 Each member of the family unit of the applicant who is an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa:

(a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and

(b) if the member of the family unit has previously been in Australia — must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010

Item	If the applicant ...	the public interest criteria to be satisfied by the member of the family unit are ...	and if the member of the family unit has previously been in Australia, the special return criteria are ...
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019	5001, 5002 and 5010

884.227 Each member of the family unit of the applicant who is not an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa must satisfy the public interest criteria mentioned in the item in the table that applies to the applicant.

Item	If the applicant was ...	the public interest criteria to be satisfied by the member of the family unit are ...
1	not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

884.228 If a person (the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and

- (c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.
- 884.229 If the applicant has previously made a valid application for another parent visa:
- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
 - (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;
 - (iii) if the applicant has applied for:
 - (A) review by the Migration Review Tribunal; or
 - (B) review by the Administrative Appeals Tribunal; or
 - (C) judicial review proceedings (including proceedings on appeal);the applicant has withdrawn all applications for the review or review proceedings.

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- 884.230 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

884.3 Secondary criteria

884.31 Criteria to be satisfied at time of application

- 884.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 884.21.
- 884.312 A sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:
- (a) is in force; and
 - (b) includes sponsorship of the applicant.

884.32 Criteria to be satisfied at time of decision

- 884.321 Unless the applicant is a contributory parent newborn child, the applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa.
- 884.322 One of the following applies:
- (a) a sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:
 - (i) is in force; and
 - (ii) includes sponsorship of the applicant; whether or not the sponsor was the sponsor at the time of application.

- (b) the applicant is a contributory parent newborn child who is sponsored by the person who sponsored the contributory parent newborn child's parent for a Subclass 884 (Contributory Aged Parent (Temporary)) visa or a Subclass 864 (Contributory Aged Parent) visa, and the contributory parent newborn child's sponsorship has been approved by the Minister;
- (c) the applicant is a contributory parent newborn child who is taken to be sponsored in accordance with clause 884.322A.

884.322A A contributory parent newborn child is taken to be sponsored if:

- (a) the contributory parent newborn child's parent is taken to be sponsored in accordance with subclause 864.213 (4); or
- (b) the following criteria apply in relation to the contributory parent newborn child's parent:
 - (i) the parent is the holder of a Subclass 864 (Contributory Aged Parent) visa at the time of the contributory parent newborn child's application;
 - (ii) the person who sponsored the parent for the Subclass 864 (Contributory Aged Parent) visa has died; or
- (c) the following criteria apply in relation to the contributory parent newborn child's parent:
 - (i) at the time of the contributory parent newborn child's application, the parent is the holder of:
 - (A) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
 - (B) a bridging visa, and the last substantive visa held by that parent was a Subclass 884 (Contributory Aged Parent (Temporary)) visa;
 - (ii) the person who sponsored the parent for the Subclass 884 (Contributory Aged Parent (Temporary)) visa has died.

884.323 For an applicant who is not a contributory parent newborn child, the applicant satisfies the criteria mentioned for the applicant in an item in the table that relates to the applicant.

Item	If the applicant is a member of the family unit of a person who is mentioned in clause 884.321, and the person ...	the public interest criteria to be satisfied by the applicant are ...
1	was not the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019
2	was the holder of a substituted Subclass 676 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application — 4019

884.324 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

884.325 If the applicant has previously made a valid application for another parent visa:

- (a) the application has been:
 - (i) finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*); or
 - (ii) withdrawn; and
- (b) any of the following has occurred in relation to the application for that visa:
 - (i) each decision that has been made in respect of the application is not, or is no longer, subject to any form of:
 - (A) review by the Administrative Appeals Tribunal; or
 - (B) judicial review proceedings (including proceedings on appeal);
 - (ii) a decision that has been made in respect of the application was subject to:
 - (A) review by the Administrative Appeals Tribunal; or

(B) judicial review proceedings (including proceedings on appeal);

but the period within which such a review or such review proceedings could be instituted has ended without a review or review proceedings having been instituted as prescribed;

(iii) if the applicant has applied for:

(A) review by the Migration Review Tribunal; or

(B) review by the Administrative Appeals Tribunal; or

(C) judicial review proceedings (including proceedings on appeal);

the applicant has withdrawn all applications for the review or review proceedings.

884.326 If the applicant:

(a) is not a contributory parent newborn child; and

(b) has previously been in Australia;

the applicant satisfies special return criteria 5001, 5002 and 5010.

884.327 If the applicant is a contributory parent newborn child, the applicant has undergone any health checks that the Minister considers appropriate.

884.328 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source; and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

884.4 Circumstances applicable to grant

884.411 If the applicant is not a contributory parent newborn child, the applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

884.412 If the applicant is a contributory parent newborn child, the applicant may be in Australia or outside Australia when the visa is granted.

884.5 When visa is in effect

884.511 If the applicant is not a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia for 2 years from a date specified by the Minister for the purpose.

884.512 If the applicant is a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

884.6 Conditions: Nil.

884.7 Way of giving evidence

884.711 No evidence need be given.

884.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 885 Skilled — Independent

885.1 Interpretation

885.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

diploma has the same meaning as in subregulation 2.26A (6).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 For *Australian study requirement*, see regulation 1.15F.

Note 2 For *competent English*, see regulation 1.15C.

Note 3 For *registered course*, see regulation 1.03.

Note 4 For *relevant assessing authority*, see regulation 1.03.

Note 5 For *skilled occupation*, see regulation 1.03.

Note 6 For *vocational English*, see regulation 1.15B.

885.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

885.21 Criteria to be satisfied at time of application

- 885.211 (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant met the requirements of subitem 1136 (4) of Schedule 1, and:
- (a) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made; and
 - (b) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.
- (3) The applicant met the requirements of subitem 1136 (5) of Schedule 1, and:
- (a) if the applicant holds a Subclass 476 (Skilled — Recognised Graduate) visa, the qualification used to obtain that visa is closely related to the applicant's nominated skilled occupation; or
 - (b) if the applicant holds a Subclass 485 (Skilled — Graduate) visa, each degree, diploma or trade qualification used to satisfy the Australian study requirement to obtain that visa is closely related to the applicant's nominated skilled occupation.
- (4) The applicant met the requirements of subitem 1136 (6) of Schedule 1, and:
- (a) the applicant must have completed the apprenticeship for which the Subclass 471 (Trade Skills Training) visa was granted; and
 - (b) the apprenticeship is closely related to the applicant's nominated skilled occupation.

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- 885.212 The Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
- 885.213 Either:
- (a) the applicant's nominated skilled occupation is in Major Group IV in the Australian Standard Classification of Occupations, and the applicant has vocational English; or
 - (b) the applicant has competent English.
- 885.214 The application is accompanied by evidence that:
- (a) the applicant; and
 - (b) each person included in the application who is at least 16;
- has applied for an Australian Federal Police check during the 12 months immediately before the day when the application is made.
- 885.215 The application is accompanied by evidence that the applicant and each person included in the application has made arrangements to undergo a medical examination for the purpose of the application.
- 885.22 Criteria to be satisfied at time of decision**
- 885.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.
- Note* That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.
- The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).
- 885.222 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.

- (2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.
- 885.223 No evidence has become available since the time of application that the information given or used:
- (a) to meet the requirements of item 1136 of Schedule 1; or
 - (b) to satisfy Subdivision 885.21; or
 - (c) to satisfy clause 885.221; or
 - (d) to obtain the skills assessment mentioned in subclause 885.222 (1);
- was false or misleading in a material particular.
- 885.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 885.225 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 885.226 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 885 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) satisfies special return criteria 5001, 5002 and 5010.
- 885.227 Each member of the family unit of the applicant, who is not an applicant for a Subclass 885 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

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- 885.228 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 885.229 Grant of the visa would not result in either:
- (a) the number of Subclass 885 visas granted in a financial year exceeding the maximum number of Subclass 885 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
 - (b) the number of visas of particular classes (including Subclass 885) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.
- 885.230 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

885.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

885.31 Criteria to be satisfied at time of application

- 885.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 885.21 and made a combined application with that person.

885.32 Criteria to be satisfied at time of decision

- 885.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 885 visa.
- 885.322 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 885.323 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 885.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 885.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

885.4 Circumstances applicable to grant

- 885.411 The applicant must be in Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

885.5 When visa is in effect

- 885.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

885.6 Conditions: Nil.

885.7 Way of giving evidence

- 885.711 No evidence need be given.

885.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 886 Skilled — Sponsored

886.1 Interpretation

886.111 In this Part:

degree has the same meaning as in subregulation 2.26A (6).

diploma has the same meaning as in subregulation 2.26A (6).

trade qualification has the same meaning as in subregulation 2.26A (6).

Note 1 For *Australian study requirement*, see regulation 1.15F.

Note 2 For *competent English*, see regulation 1.15C.

Note 3 For *registered course*, see regulation 1.03.

Note 4 For *relevant assessing authority*, see regulation 1.03.

Note 5 For *skilled occupation*, see regulation 1.03.

Note 6 For *vocational English*, see regulation 1.15B.

886.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

886.21 Criteria to be satisfied at time of application

886.211 (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) The applicant met the requirements of subitem 1136 (4) of Schedule 1, and:

- (a) the applicant satisfied the Australian study requirement in the period of 6 months ending immediately before the day on which the application was made; and
- (b) each degree, diploma or trade qualification used to satisfy the Australian study requirement is closely related to the applicant's nominated skilled occupation.

- (3) The applicant met the requirements of subitem 1136 (5) of Schedule 1, and:
- (a) if the applicant holds a Subclass 476 (Skilled — Recognised Graduate) visa, the qualification used to obtain that visa is closely related to the applicant's nominated skilled occupation; or
 - (b) if the applicant holds a Subclass 485 (Skilled — Graduate) visa, each degree, diploma or trade qualification used to satisfy the Australian study requirement to obtain that visa applicant is closely related to the applicant's nominated skilled occupation.
- (4) The applicant met the requirements of subitem 1136 (6) of Schedule 1, and:
- (a) the applicant must have completed the apprenticeship for which the Subclass 471 (Trade Skills Training) visa was granted; and
 - (b) the apprenticeship is closely related to the applicant's nominated skilled occupation.
- 886.212 The Minister is satisfied that the applicant has applied for an assessment of the applicant's skills for the nominated skilled occupation by a relevant assessing authority.
- 886.213 Either:
- (a) the applicant's nominated skilled occupation is in Major Group IV in the Australian Standard Classification of Occupations, and the applicant has vocational English; or
 - (b) the applicant has competent English.
- 886.214 The application is accompanied by evidence that:
- (a) the applicant; and
 - (b) each person included in the application who is at least 16;
- has applied for an Australian Federal Police check during the 12 months immediately before the day when the application is made.

886.215 The application is accompanied by evidence that the applicant and each person included in the application has made arrangements to undergo a medical examination for the purpose of the application.

886.22 Criteria to be satisfied at time of decision

886.221 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 3 of Part 2 of the Act.

Note That Subdivision of the Act provides in sections 92 to 96 for the application of a points system, under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark.

The prescribed points and the manner of their allocation are provided for in Division 2.6 and Schedule 6B of these Regulations. Pool marks and pass marks are set from time to time by the Minister by instrument (Act, section 96).

- 886.222
- (1) The requirements of subclause (2) or (3) are met.
 - (2) Both of the following apply:
 - (a) the applicant has been nominated by a State or Territory government agency;
 - (b) the Minister has accepted the nomination.
 - (3) All of the following apply:
 - (a) the applicant, and all persons included in the application, are sponsored by a person who:
 - (i) has turned 18; and
 - (ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (iii) is usually resident in Australia; and
 - (iv) is related to the applicant, or the applicant's spouse or de facto partner (if the applicant's spouse or de facto partner is also an applicant for a Subclass 886 visa), as:
 - (A) a parent; or
 - (B) a child or a step-child; or

- (C) a brother or sister, an adoptive brother or sister, or a step-brother or step-sister; or
 - (D) an aunt or uncle, an adoptive aunt or uncle, or a step-aunt or step-uncle; or
 - (E) a nephew or niece, an adoptive nephew or niece, or a step-nephew or step-niece;
- (b) the sponsorship was made:
- (i) on Form 1277 (Internet); or
 - (ii) on Form 1277:
 - (A) by posting the form (with the correct pre-paid postage) to the post office box address or other address specified by the Minister in an instrument in writing for this sub-subparagraph; or
 - (B) by having the form delivered by a courier service to the address specified by the Minister in an instrument in writing for this sub-subparagraph;

and the Minister has accepted the sponsorship.

886.223 (1) The skills of the applicant have been assessed by the relevant assessing authority as suitable for the applicant's nominated skilled occupation.

(2) If the assessment mentioned in subclause (1) is made on the basis of a qualification obtained in Australia while the applicant was the holder of a student visa, the qualification was obtained as a result of studying a registered course.

886.224 No evidence has become available since the time of application that the information given or used:

- (a) to meet the requirements of item 1136 of Schedule 1; or
- (b) to satisfy Subdivision 886.21; or
- (c) to satisfy clause 886.221; or
- (d) to obtain the skills assessment mentioned in subclause 886.223 (1);

was false or misleading in a material particular.

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- 886.225 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 886.226 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 886.227 Each person who is a member of the family unit of the applicant, and who is also an applicant for a Subclass 886 visa, is a person who:
- (d) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
 - (da) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (e) satisfies special return criteria 5001, 5002 and 5010.
- 886.228 Each member of the family unit of the applicant, who is not an applicant for a Subclass 886 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
 - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 886.229 If a person (the *additional applicant*):
- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied for the additional applicant.
- 886.230 Grant of the visa would not result in either:
- (a) the number of Subclass 886 visas granted in a financial year exceeding the maximum number of Subclass 886 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or

- (b) the number of visas of particular classes (including Subclass 886) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

886.231 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

886.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

886.31 Criteria to be satisfied at time of application

886.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 886.21 and made a combined application with that person.

886.32 Criteria to be satisfied at time of decision

886.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 886 visa.

886.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

886.323 The applicant satisfies special return criteria 5001, 5002 and 5010.

886.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 886.325 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source;
and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

886.4 Circumstances applicable to grant

- 886.411 The applicant must be in Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

886.5 When visa is in effect

- 886.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

886.6 Conditions: Nil.

886.7 Way of giving evidence

- 886.711 No evidence need be given.
- 886.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 887 Skilled — Regional

887.1 Interpretation

- 887.111 In this Part:

specified regional area means:

- (a) for an applicant who applied for a Subclass 887 visa on the basis on having held:
 - (i) a Skilled— Independent Regional (Provisional) (Class UX) visa; or

- (ii) a Skilled (Provisional) (Class VC) visa that is subject to condition 8539; or
 - (iii) a Skilled (Provisional) (Class VF) visa that is subject to condition 8539;
a part of Australia that, at the time at which a visa of that kind was first granted to the applicant, was specified by the Minister in an instrument in writing under item 6A1001 of Schedule 6A; or
- (b) for an applicant who applied for a Subclass 887 visa on the basis of having held:
- (i) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (ii) a Skilled (Provisional) (Class VC) visa that is subject to condition 8549; or
 - (iii) a Skilled (Provisional) (Class VF) visa, subject to condition 8549;
a part of Australia that, at the time at which a visa of that kind was first granted to the applicant, was specified by the Minister in an instrument in writing under item 6701 of Schedule 6.

887.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

887.21 Criteria to be satisfied at time of application

- 887.211 The applicant meets the requirements set out in subitem 1136 (7) of Schedule 1.
- 887.212 The applicant must have lived in a specified regional area for a total of at least 2 years as the holder of 1 or more of the following visas:
- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa;
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa;

- (c) a Subclass 475 (Skilled — Regional Sponsored) visa;
- (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
- (e) a Bridging A (Class WA) visa, or a Bridging B (Class WB) visa, that was granted on the basis of a valid application for:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled (Provisional) (Class VC) visa.

887.213 The applicant must have worked full-time in a specified regional area for a total of at least 1 year as the holder of 1 or more of the visas mentioned in clause 887.212.

887.22 Criteria to be satisfied at time of decision

- 887.221 (1) While the applicant was the holder of:
- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
- the applicant must have substantially complied with the conditions to which that visa is or was subject.
- (2) While a person included in the application (other than the applicant) was the holder of:
- (a) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (c) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (d) a Subclass 487 (Skilled — Regional Sponsored) visa;
- that person must have substantially complied with the conditions to which that visa is or was subject.
- 887.222 No evidence has become available since the time of application that the information given or used:

- (a) to satisfy any part of the assessment of eligibility of the applicant for:
 - (i) a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (ii) a Skilled — Designated Area-sponsored (Provisional) (Class UZ) visa; or
 - (iii) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (iv) a Subclass 487 (Skilled — Regional Sponsored) visa; or
 - (b) to meet the requirements of subitem 1136 (7) of Schedule 1; or
 - (c) to satisfy Subdivision 887.21;
was false or misleading in a material particular.
- 887.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 887.224 The applicant satisfies special return criteria 5001, 5002 and 5010.
- 887.225 Each member of the family unit of the applicant, who is also an applicant for a Subclass 887 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4010; and
 - (aa) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019; and
 - (b) satisfies special return criteria 5001, 5002 and 5010.
- 887.226 Each member of the family unit of the applicant, who is not an applicant for a Subclass 887 visa, is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

887.227 If a person (the *additional applicant*):

- (a) is a member of the family unit of the applicant; and
 - (b) is less than 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied for the additional applicant.

887.228 Grant of the visa would not result in either:

- (a) the number of Subclass 887 visas granted in a financial year exceeding the maximum number of Subclass 887 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 887) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

887.229 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

887.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

887.31 Criteria to be satisfied at time of application

887.311 The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 887.21 and made a combined application with that person.

887.32 Criteria to be satisfied at time of decision

887.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 887 visa.

887.322 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

887.323 The applicant satisfies special return criteria 5001, 5002 and 5010.

887.324 If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

887.325 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

887.4 Circumstances applicable to grant

887.411 The applicant must be in Australia when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

887.5 When visa is in effect

887.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

887.6 Conditions: Nil.

887.7 Way of giving evidence

887.711 No evidence need be given.

887.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 890 Business Owner

890.1 Interpretation

Note 1 *AUD*, *ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

Note 4 There are no interpretation provisions specific to this Part.

890.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

890.21 Criteria to be satisfied at time of application

890.211 (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main businesses in Australia for at least 2 years immediately before the application is made.

(2) For each business to which subclause (1) applies:

- (a) an Australian Business Number has been obtained; and
- (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the *ATO* and have been included in the application.

- 890.212 The assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
- (a) have a net value of at least AUD100 000; and
 - (b) had a net value of at least AUD100 000 throughout the period of 12 months ending immediately before the application is made; and
 - (c) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.
- 890.213 In the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD300 000.
- 890.214 In the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
- (a) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 2 full-time employees over that period of 12 months; and
 - (b) provided those hours of employment to an employee, or employees, who:
 - (i) were not the applicant or a member of the family unit of the applicant; and
 - (ii) were Australian citizens, Australian permanent residents or New Zealand passport holders.
- 890.215 The net value of the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, is, and has been throughout the 12 months immediately before the application is made, at least AUD250 000.

890.216 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

890.217 The applicant has been in Australia as the holder of 1 of the visas mentioned in paragraph 1104B (3) (d) of Schedule 1 for a total of at least 1 year in the 2 years immediately before the application is made.

890.22 Criteria to be satisfied at time of decision

890.221 The applicant continues to satisfy the criteria in clauses 890.211, 890.215 and 890.216.

890.222 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

890.223 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 890 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 890 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

(3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4005.

(4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4007.

890.224 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

890.225 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

890.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

890.31 Criteria to be satisfied at time of application

890.311 The applicant is a member of the family unit of, and has made a combined application with, a person who satisfies the primary criteria in Subdivision 890.21.

890.32 Criteria to be satisfied at time of decision

890.321 The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 890 visa.

890.322 (1) The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) If the applicant, at the time of application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4005.

(3) If the applicant, at the time of application, was the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4007.

890.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

890.324 The Minister is satisfied that:

(a) the applicant is the holder of a valid passport that:

(i) was issued to the applicant by an official source;
and

(ii) is in the form issued by the official source; or

(b) it would be unreasonable to require the applicant to be the holder of a passport.

890.4 Circumstances applicable to grant

890.411 (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.

(2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

890.5 When visa is in effect

890.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

890.6 Conditions

890.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

890.7 Way of giving evidence

890.711 No evidence need be given.

890.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 891 Investor

891.1 Interpretation

891.111 In this Part:

designated investment means an investment in a security specified by the Minister under regulation 5.19A for this Part.

Note 1 AUD, fiscal year, ownership interest and qualifying business are defined in regulation 1.03.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

891.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

891.21 Criteria to be satisfied at time of application

891.211 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

891.212 The applicant has been in Australia as the holder of a Subclass 162 (Investor (Provisional)) visa for a total of at least 2 years in the 4 years immediately before the application is made.

891.213 The applicant genuinely has a realistic commitment, after the grant of a Subclass 891 visa, to continue to maintain business or investment activity in Australia.

891.22 Criteria to be satisfied at time of decision

891.221 The applicant continues to satisfy the criteria in clauses 891.211 and 891.213.

891.222 The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 162 (Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.

891.223 The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

891.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 891 visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 891 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.

(3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4005.

(4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4007.

891.225 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

891.226 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

891.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

891.31 Criteria to be satisfied at time of application

891.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 891.21.

891.32 Criteria to be satisfied at time of decision

891.321 The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 891 visa.

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- 891.322 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.
- 891.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.
- 891.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

891.4 Circumstances applicable to grant

- 891.411 (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

891.5 When visa is in effect

- 891.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

891.6 Conditions

- 891.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:
- (a) first entry must be made before a date specified by the Minister for the purpose; and
 - (b) condition 8515 may be imposed.

891.7 Way of giving evidence

- 891.711 No evidence need be given.
- 891.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 892 State/Territory Sponsored Business Owner

892.1 Interpretation

Note 1 **appropriate regional authority**, **AUD**, **ownership interest** and **qualifying business** are defined in regulation 1.03 and **main business** is defined in regulation 1.11.

Note 2 As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3 Regulation 1.03 provides that **member of the family unit** has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

Note 4 There are no interpretation provisions specific to this Part.

892.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

892.21 Criteria to be satisfied at time of application

- 892.211 (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main

businesses in Australia for at least 2 years immediately before the application is made.

(2) For each business to which subclause (1) applies:

- (a) an Australian Business Number has been obtained; and
- (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the ATO and have been included in the application.

892.212 Unless the appropriate regional authority has determined that there are exceptional circumstances, the applicant meets at least 2 of the following requirements:

- (a) in the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (i) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 1 full-time employee over that period of 12 months; and
 - (ii) provided those hours of employment to an employee, or employees, who:
 - (A) were not the applicant or a member of the family unit of the applicant; and
 - (B) were Australian citizens, Australian permanent residents or New Zealand passport holders;
- (b) the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
 - (i) have a net value of at least AUD250 000; and
 - (ii) had a net value of at least AUD250 000 throughout the period of 12 months ending immediately before the application is made; and

- (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together;
 - (c) the assets owned by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
 - (i) have a net value of at least AUD75 000; and
 - (ii) had a net value of at least AUD75 000 throughout the period of 12 months ending immediately before the application is made; and
 - (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.
- 892.213 (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if, in the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD200 000.
- (3) An applicant meets the requirements of this subclause if:
- (a) the applicant meets at least 2 of the requirements set out in paragraphs 892.212 (a), (b) and (c); and
 - (b) the applicant resides in, and operates the applicant's main business or businesses in Australia in, an area specified in an instrument in writing made by the Minister for this paragraph; and
 - (c) the appropriate regional authority has determined that there are exceptional circumstances for this subclause.
- 892.214 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

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- 892.215 If the applicant is not the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa, one or more of the following circumstances has existed for a total of at least 1 year in the period of 2 years ending immediately before the application is made:
- (a) the applicant has been in Australia as the holder of one of the visas mentioned in paragraph 1104B (3) (f) of Schedule 1;
 - (b) the applicant has been in Australia as the holder of a Bridging A (Class WA) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2;
 - (c) the applicant has been in Australia as the holder of a Bridging B (Class WB) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223 (7A) of Schedule 2.
- 892.216 If:
- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
 - (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant must have lived for at least 2 years in total, as the holder of 1 or more:
- (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and

- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

892.216A If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
(b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant must have worked full time for at least 12 months in total, as the holder of 1 or more:

- (c) Skilled — Independent Regional (Provisional) (Class UX) visas; and
(d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled — Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

892.217 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or
(b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;

the applicant has complied with the conditions of that visa.

892.22 Criteria to be satisfied at time of decision

- 892.221 The applicant:
- (a) continues to satisfy the criteria in clauses 892.211 and 892.214; and
 - (b) if the applicant met the requirements of paragraph 892.212 (b), continues to meet those requirements.
- 892.222 (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.
- 892.223 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- 892.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 892 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 892 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of either:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
- satisfies public interest criterion 4005.

(4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of:

- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
- (b) a Subclass 457 (Business (Long Stay)) visa; or
- (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;

satisfies public interest criterion 4007.

892.225 If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied in relation to the person.

892.226 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

892.3 Secondary criteria

Note The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

892.31 Criteria to be satisfied at time of application

892.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 892.21.

892.312 If:

- (a) the applicant is the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa; or

- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled — Independent Regional (Provisional) (Class UX) visa;
the applicant has complied with the conditions of that visa.

892.32 Criteria to be satisfied at time of decision

- 892.321 The applicant is a member of the family unit of a person who:
- (a) is the person with whom a combined application was made; and
 - (b) having satisfied the primary criteria, is the holder of a Subclass 892 visa.
- 892.322 (1) The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of either:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of:
- (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
 - (b) a Subclass 457 (Business (Long Stay)) visa; or
 - (c) a Skilled — Independent Regional (Provisional) (Class UX) visa;
- the applicant satisfies public interest criterion 4007.
- 892.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

- 892.324 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

892.4 Circumstances applicable to grant

- 892.411 If the applicant:
- (a) was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa at the time of application; or
 - (b) is a member of the family unit of a person who was the holder of a Skilled — Independent Regional (Provisional) (Class UX) visa by reason of satisfying the primary criteria for the grant of the visa at the time of application;
- the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

- 892.412 If clause 892.411 does not apply:
- (a) if the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted; and
 - (b) if the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

892.5 When visa is in effect

- 892.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

892.6 Conditions

- 892.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:
- (a) first entry must be made before a date specified by the Minister for the purpose; and
 - (b) condition 8515 may be imposed.

892.7 Way of giving evidence

- 892.711 No evidence need be given.
- 892.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 893 State/Territory Sponsored Investor

893.1 Interpretation

- 893.111 In this Part:
- designated investment* means an investment in a security specified by the Minister under regulation 5.19A for the purposes of this Part.
- Note 1 appropriate regional authority, AUD, fiscal year, ownership interest and qualifying business* are defined in regulation 1.03.
- Note 2* As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.
- Note 3* Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12 (1) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

893.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 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.

893.21 Criteria to be satisfied at time of application

- 893.211 Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.
- 893.212 The applicant has been resident, as the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located for a total of at least 2 years in the 4 years immediately before the application is made.
- 893.213 The applicant genuinely has a realistic commitment, after the grant of a Subclass 893 visa, to continue to maintain business or investment activity in Australia.

893.22 Criteria to be satisfied at time of decision

- 893.221 The applicant continues to satisfy the criteria in clauses 893.211 and 893.213.
- 893.222 (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.
- 893.223 The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.
- 893.224 The applicant:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009 and 4010; and
 - (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

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- 893.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 893 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
 - (b) if the person had turned 18 at the time of application — satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 893 visa satisfies public interest criteria 4001, 4002, 4003 and 4004.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4007.
- 893.226 If a person:
- (a) is a member of the family unit of the applicant; and
 - (b) has not turned 18; and
 - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.
- 893.227 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

893.3 Secondary criteria

Note These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

893.31 Criteria to be satisfied at time of application

893.311 The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 893.21.

893.32 Criteria to be satisfied at time of decision

893.321 The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 893 visa.

893.322 (1) The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009 and 4010; and
- (b) if the applicant had turned 18 at the time of application — satisfies public interest criterion 4019.

(2) If the applicant, at the time of application, was not the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.

(3) If the applicant, at the time of application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.

893.323 If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

893.324 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

893.4 Circumstances applicable to grant

893.411 (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.

(2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note The second instalment of the visa application charge must be paid before the visa can be granted.

893.5 When visa is in effect

893.511 Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

893.6 Conditions

893.611 If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

893.7 Way of giving evidence

893.711 No evidence need be given.

893.712 If evidence is given, to be given by a label affixed to a valid passport.

Subclass 956 Electronic Travel Authority (Business Entrant — Long Validity)

956.1 Interpretation

Note No interpretation provisions specific to this Part.

956.2 Primary criteria

956.21 [No criteria to be satisfied at time of application]

956.22 Criteria to be satisfied at time of decision

956.221 The applicant holds a passport that is an ETA-eligible passport in relation to this Subclass.

956.222 The applicant states an intention only to visit Australia temporarily for business purposes.

956.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

956.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

956.3 Secondary criteria

956.31 [No criteria to be satisfied at time of application]

956.32 Criteria to be satisfied at time of decision

956.321 The applicant is included in the passport of a person who satisfies the primary criteria.

956.322 The applicant states an intention only to visit Australia temporarily.

956.323 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

956.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

956.4 Circumstances applicable to grant

956.411 If the application is made in immigration clearance, the applicant must be in immigration clearance at time of grant.

956.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

956.5 When visa is in effect

956.511 Temporary visa:

- (a) either:
 - (i) coming into effect on grant; or
 - (ii) providing that if:
 - (A) the applicant holds another substantive visa, other than:
 - (I) a Special Purpose visa; or
 - (IA) a Subclass 651 (eVisitor) visa; or
 - (II) a Subclass 676 Tourist (Short Stay) visa; or
 - (III) a Subclass 676 (Tourist) visa; or
 - (IV) a Subclass 686 Tourist (Long Stay) visa; or
 - (V) a Subclass 976 Electronic Travel Authority (Visitor) visa; or
 - (VI) a Subclass 977 Electronic Travel Authority (Business Entrant — Short Validity) visa; or
 - (VII) a Subclass 988 (Maritime Crew) visa; that is in effect at the date of grant; and
 - (B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;
this visa comes into effect when the other substantive visa ceases; and
- (b) permitting the holder:
 - (i) to travel to, and enter, Australia on multiple occasions for the life of the holder's passport; and
 - (ii) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the substantive visa ceases exceeds the period in this visa, this visa will not come into effect.

956.512 If the visa holder holds another substantive visa at the time of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

956.6 Conditions

956.611 Conditions 8112, 8201, 8205, 8527 and 8528 must be imposed.

956.7 Way of giving evidence

956.711 No evidence need be given.

Subclass 976 Electronic Travel Authority (Visitor)

976.1 Interpretation

Note There are no interpretation provisions specific to this Part.

976.2 Primary criteria

Note All applicants must satisfy the primary criteria.

976.21 [No criteria to be satisfied at time of application]

976.22 Criteria to be satisfied at time of decision

976.221 The applicant holds a passport that is an ETA-eligible passport in relation to this Subclass.

976.222 The applicant states an intention only to visit Australia temporarily for tourism purposes.

976.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

976.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

976.3 Secondary criteria: Nil.

Note All applicants must satisfy the primary criteria.

976.4 Circumstances applicable to grant

976.411 If the application is made in immigration clearance, the applicant must be in immigration clearance at time of grant.

976.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

976.5 When visa is in effect

976.511 Temporary visa:

- (a) either:
 - (i) coming into effect on grant; or
 - (ii) providing that if:
 - (A) the applicant holds another substantive visa, other than:
 - (I) a Special Purpose visa; or
 - (II) a Subclass 988 (Maritime Crew) visa; that is in effect at the date of grant; and
 - (B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa; this visa comes into effect when the other substantive visa ceases; and
- (b) permitting the holder:
 - (i) to travel to, and enter, Australia on multiple occasions within 12 months from the date of the grant of the visa, or within the life of the holder's passport, whichever is the shorter; and
 - (ii) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

976.512 If the visa holder holds another substantive visa at the date of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

976.6 Conditions

976.611 Conditions 8101, 8201, 8205, 8527 and 8528 must be imposed.

976.7 Way of giving evidence

976.711 No evidence need be given.

Subclass 977 Electronic Travel Authority (Business Entrant — Short Validity)

977.1 Interpretation

Note No interpretation provisions specific to this Part.

977.2 Primary criteria

977.21 [No criteria to be satisfied at time of application]

977.22 Criteria to be satisfied at time of decision

977.221 The applicant holds a passport that is an ETA-eligible passport in relation to this Subclass.

977.222 The applicant states an intention only to visit Australia temporarily for business purposes.

977.223 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

977.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

977.3 Secondary criteria

977.31 [No criteria to be satisfied at time of application]

977.32 Criteria to be satisfied at time of decision

977.321 The applicant is included in the passport of a person who satisfies the primary criteria.

977.322 The applicant states an intention only to visit Australia temporarily.

977.323 The applicant satisfies public interest criteria 4002, 4003, 4004, 4005, 4013 and 4014.

977.324 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.

977.4 Circumstances applicable to grant

977.411 If the application is made in immigration clearance, the applicant must be in immigration clearance at time of grant.

977.412 If the application is made outside Australia, the applicant must be outside Australia at time of grant.

977.5 When visa is in effect

977.511 Temporary visa:

(a) either:

(i) coming into effect on grant; or

(ii) providing that if:

(A) the applicant holds another substantive visa, other than:

(I) a Special Purpose visa; or

(IA) a Subclass 651 (eVisitor) visa; or

(II) a Subclass 676 Tourist (Short Stay) visa;
or

- (III) a Subclass 676 (Tourist) visa; or
 - (IV) a Subclass 686 Tourist (Long Stay) visa;
or
 - (V) a Subclass 976 Electronic Travel Authority (Visitor) visa; or
 - (VI) a Subclass 988 (Maritime Crew) visa;
that is in effect at the date of grant; and
 - (B) the other substantive visa ceases during the period beginning at the grant of this visa and ending at the end of the period specified in this visa;
this visa comes into effect when the other substantive visa ceases; and
- (b) permitting the holder:
- (i) to travel to, and enter, Australia on 1 or more occasions, as specified by the Minister, within 12 months from the date of the grant of the visa, or within the life of the holder's passport, whichever is the shorter; and
 - (ii) on each occasion, to remain in Australia for a period not exceeding 3 months from the date of entry into Australia.

Note If, when the other substantive visa ceases, the period from the grant of this visa to the time the substantive visa ceases exceeds the period specified in this visa, this visa will not come into effect.

977.512 If the visa holder holds another substantive visa at the time of grant and that substantive visa is cancelled, this visa is in effect for a period that ends when the other substantive visa is cancelled.

977.6 Conditions

977.611 Conditions 8112, 8201, 8205 and 8527 and 8528 must be imposed.

977.7 Way of giving evidence

977.711 No evidence need be given.

Subclass 988 **Maritime Crew**

Note This Subclass is created in accordance with section 38B of the Act.

988.1 **Interpretation**

Note *member of the crew* and *non-military ship* are defined in regulation 1.03.

988.111 In this Part, a person is taken to have signed on to a non-military ship in Australia on the day notified to the Department by the Australian Customs Service.

Note For this Part, a person will sign on to a ship in Australia after:

- (a) travelling to Australia on another visa in order to join a ship as a member of the crew; or
- (b) joining the ship in Australia after signing off another ship in Australia; or
- (c) joining another ship after the ship on which the person travelled to Australia is imported under section 49A or 71A of the *Customs Act 1901*.

988.112 In this Part, a person is taken to have signed off a non-military ship on the day notified to the Department by the Australian Customs Service.

988.113 In this Part, a non-military ship is imported under section 49A of the *Customs Act 1901* or entered for home consumption under 71A of that Act on the day notified to the Department by the Australian Customs Service.

988.2 **Primary criteria**

Note The spouse, de facto partner or dependent child of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship, need satisfy only the secondary criteria.

988.21 **Criteria to be satisfied at time of application**

988.211 The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
 - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and

- (ii) in relation to whom the offer is current; and
- (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.

988.22 Criteria to be satisfied at time of decision

988.221 The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
 - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and
 - (ii) in relation to whom the offer is current; and
 - (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.

988.222 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.

988.223 The applicant satisfies special return criteria 5001 and 5002.

988.224 The Minister is satisfied that the applicant's expressed intention to enter and remain in Australia for the purpose of being a member of the crew of a non-military ship is genuine.

988.225 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

988.3 Secondary criteria

Note These criteria must be satisfied by the spouse, de facto partner or dependent child of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship.

988.31 [No criteria to be satisfied at time of application]

988.32 Criteria to be satisfied at time of decision

988.321 The applicant is:

- (a) the spouse or de facto partner of a person who is the holder of a Subclass 988 visa on the basis of having satisfied the primary criteria for the grant of the visa; or
- (b) a dependent child of a person who is the holder of a Subclass 988 visa on the basis of having satisfied the primary criteria for the grant of the visa.

988.322 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013 and 4014.

988.323 The applicant satisfies special return criteria 5001 and 5002.

988.324 The Minister is satisfied that:

- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
- (b) it would be unreasonable to require the applicant to be the holder of a passport.

988.4 Circumstances applicable to grant

988.411 The applicant may be in or outside Australia when the visa is granted.

988.5 When visa is in effect

988.511 Temporary visa coming into effect on grant.

988.512 The visa ceases to be in effect:

- (a) on the occurrence of the earliest of the circumstances mentioned in an item in the following table; and
- (b) at the time mentioned in the item:

Item	Circumstances	Time at which the visa ceases to have effect
1	<p>Both of the following apply:</p> <p>(a) the holder has entered Australia otherwise than as:</p> <ul style="list-style-type: none">(i) a member of the crew serving on a non-military ship; or(ii) the spouse, de facto partner or a dependent child of a member of the crew serving on a non-military ship; <p>(b) the holder has not signed on to a non-military ship as a member of the crew, or as a spouse, de facto partner or dependent child of a member of the crew, before the latest of:</p> <ul style="list-style-type: none">(i) 5 days after the day on which the holder last entered Australia; and(ii) if the holder last entered Australia for health or safety reasons that required the holder to enter Australia — 30 days after the day on which the holder last entered Australia; and(iii) if the holder holds another visa that is in effect — the day on which that other visa ceases	<p>The end of the day or period worked out under paragraph (b) in column 2</p>

Item	Circumstances	Time at which the visa ceases to have effect
2	<p>Each of the following applies:</p> <ul style="list-style-type: none">(a) the holder has entered Australia;(b) the non-military ship in relation to which the holder is:<ul style="list-style-type: none">(i) a member of the crew; or(ii) the spouse, de facto partner or a dependent child of a member of the crew; <p>has been imported under section 49A of the <i>Customs Act 1901</i> or entered for home consumption under 71A of that Act;</p> <ul style="list-style-type: none">(c) the holder has not signed on to another non-military ship as a member of the crew, or as the spouse, de facto partner or a dependent child of a member of the crew before the end of the longer of the following periods that applies to the person:<ul style="list-style-type: none">(i) 5 days after the day on which the non-military ship was imported or entered for home consumption;	<p>The end of the day or the longest period worked out under paragraph (c) or (d) in column 2</p>

Item	Circumstances	Time at which the visa ceases to have effect
	(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption — that longer period	
	(d) the person has not departed Australia before the end of the longest of the following periods that applies to the person:	
	(i) 5 days after the day on which the non-military ship was imported or entered for home consumption;	
	(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption — that longer period;	
	(iii) if the holder holds another visa that is in effect — the day on which that other visa ceases	

Item	Circumstances	Time at which the visa ceases to have effect
3	<p>Each of the following applies:</p> <ul style="list-style-type: none">(a) the holder has entered Australia;(b) the holder has signed off a non-military ship as:<ul style="list-style-type: none">(i) a member of the crew of the non-military ship; or(ii) the spouse, de facto partner or dependent child of the spouse or de facto partner of a member of the crew of a non-military ship;(c) the holder has not signed on to another non-military ship as a member of the crew or the spouse, de facto partner or a dependent child of a member of the crew before the end of the longer of the following periods that applies to the person:<ul style="list-style-type: none">(i) 5 days after the day on which the holder signed off the last ship;(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia — that longer period;	<p>The end of the day or the longest period worked out under paragraph (c) or (d) in column 2</p>

Item	Circumstances	Time at which the visa ceases to have effect
(d)	<p>the holder has not departed Australia before the end of the longest of the following periods that applies to the person:</p> <ul style="list-style-type: none"> (i) 5 days after the day on which the holder signed off the last ship; (ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia — that longer period; (iii) if the holder holds another visa that is in effect — the day on which that other visa ceases 	
4	The end of a continuous period of 3 years starting when the visa is granted	At the end of the period of 3 years
5	<p>Both of the following apply:</p> <ul style="list-style-type: none"> (a) the holder is a person who satisfied the secondary criteria for the grant of the visa; (b) the maritime crew visa granted to the person who satisfied the primary criteria for the grant of the visa ceases to be in effect 	The end of the day on which the maritime crew visa granted to the holder who satisfied the primary criteria ceases to be in effect

Item	Circumstances	Time at which the visa ceases to have effect
6	Both of the following apply: (a) the holder also holds another visa; (b) the other visa is cancelled otherwise than under section 501, 501A or 501B of the Act	At the end of the day on which the other visa is cancelled

988.6 Conditions

988.611 For an applicant who satisfies the primary criteria, condition 8113.

988.612 For an applicant who satisfies the secondary criteria, condition 8101.

988.7 Way of giving evidence

988.711 No evidence need be given.

Subclass 995 Diplomatic (Temporary)

995.1 Interpretation

995.111 In this Part:

international representative means a representative of an international organisation.

995.2 Primary criteria

Note The primary criteria must be satisfied by at least 1 person. Other accompanying applicants for a visa of this subclass need satisfy only the secondary criteria.

995.21 [No criteria to be satisfied at time of application]

995.22 Criteria to be satisfied at time of decision.

- 995.221 The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant on the basis of the applicant being:
- (a) a diplomatic or consular representative; or
 - (b) an international representative.
- 995.222 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

995.3 Secondary criteria

995.31 [No criteria to be satisfied at time of application]

995.32 Criteria to be satisfied at time of decision

- 995.321 The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant to accompany a person (the *primary applicant*) who seeks to satisfy the primary criteria.
- 995.322 The primary applicant has satisfied the criteria for the grant of a visa as a primary applicant.
- 995.323 The Minister is satisfied that:
- (a) the applicant is the holder of a valid passport that:
 - (i) was issued to the applicant by an official source; and
 - (ii) is in the form issued by the official source; or
 - (b) it would be unreasonable to require the applicant to be the holder of a passport.

995.4 Circumstances applicable to grant

995.411 Applicant may be in the migration zone or outside Australia.

995.5 When visa is in effect

995.511 Temporary visa permitting the holder:

- (a) to travel to and enter Australia until a date specified by the Minister for the purpose; and
- (b) to remain in Australia:
 - (i) if the visa was issued on the basis of the holder satisfying the primary criteria for the grant of the visa — for the duration of the holder's status as:
 - (A) a diplomatic or consular representative in Australia of a country other than Australia; or
 - (B) an international representative; or
 - (ii) if the visa was issued on the basis of the holder satisfying the secondary criteria for the grant of the visa — for the duration of the status of the person who satisfied the primary criteria as:
 - (A) a diplomatic or consular representative in Australia of a country other than Australia; or
 - (B) an international representative; or
 - (iii) in any case — until an earlier date specified by the Minister.

995.6 Conditions

995.611 If the applicant satisfies the primary criteria, condition 8516.

995.612 If the applicant satisfies the secondary criteria, conditions 8502 and 8516.

995.7 Way of giving evidence

995.711 No evidence need be given.

995.712 If evidence is given, to be given by a label affixed to a valid passport.



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

This compilation was prepared on 1 July 2009
taking into account amendments up to SLI 2009 No. 144

The text of any of those amendments not in force
on that date is appended in the Notes section

**[Note: Regulation 2.12A ceases to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains the Notes and Tables A and B
Each volume has its own Table of Contents

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**Schedule 3 Additional criteria applicable
to unlawful non-citizens and
certain bridging visa holders**
(regulation 1.03)

- 3001 (1) The application is validly made within 28 days after the relevant day (within the meaning of subclause (2)).
- (2) For the purposes of subclause (1) and of clause 3002, the relevant day, in relation to an applicant, is:
- (a) if the applicant held an entry permit that was valid up to and including 31 August 1994 but has not subsequently been the holder of a substantive visa — 1 September 1994; or
- (b) if the applicant became an illegal entrant before 1 September 1994 (whether or not clause 6002 in Schedule 6 of the Migration (1993) Regulations applied or section 195 of the Act applies) and has not, at any time on or after 1 September 1994, been the holder of a substantive visa — the day when the applicant last became an illegal entrant; or
- (c) if the applicant:
- (i) ceased to hold a substantive or criminal justice visa on or after 1 September 1994; or
- (ii) entered Australia unlawfully on or after 1 September 1994;
- whichever is the later of:
- (iii) the last day when the applicant held a substantive or criminal justice visa; or
- (iv) the day when the applicant last entered Australia unlawfully; or
- (d) if the last substantive visa held by the applicant was cancelled, and the Migration Review Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister's decision not to revoke the cancellation — the later of:

-
- (i) the day when that last substantive visa ceased to be in effect; and
- (ii) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal's decision.
- 3002 The application is validly made within 12 months after the relevant day (within the meaning of subclause 3001 (2)).
- 3003 If:
- (a) the applicant has not, on or after 1 September 1994, been the holder of a substantive visa; and
- (b) on 31 August 1994, the applicant was either:
- (i) an illegal entrant; or
- (ii) the holder of an entry permit that was not valid beyond 31 August 1994;
- the Minister is satisfied that:
- (c) the applicant last became an illegal entrant, or, in the case of a person referred to in subparagraph (b) (ii), last became a person in Australia without a substantive visa, because of factors beyond the applicant's control; and
- (d) there are compelling reasons for granting the visa; and
- (e) the applicant has complied substantially with the conditions that apply or applied to:
- (i) the last of any entry permits held by the applicant (other than a condition of which the applicant was in breach solely because of the expiry of the entry permit); and
- (ii) any subsequent bridging visa; and
- (f) the applicant would have been entitled to be granted an entry permit equivalent to a visa of the class applied for if the applicant had applied for the entry permit immediately before last becoming an illegal entrant or, in the case of a person referred to in subparagraph (b) (ii), if the applicant had applied for the entry permit on 31 August 1994; and
- (g) the applicant intends to comply with any conditions subject to which the visa is granted; and

-
- (h) the last entry permit (if any) held by the applicant was not granted subject to a condition that the holder would not, after entering Australia, be entitled to be granted an entry permit, or a further entry permit, while the holder remained in Australia.

3004 If the applicant:

- (a) ceased to hold a substantive or criminal justice visa on or after 1 September 1994; or
- (b) entered Australia unlawfully on or after 1 September 1994 and has not subsequently been granted a substantive visa;

the Minister is satisfied that:

- (c) the applicant is not the holder of a substantive visa because of factors beyond the applicant's control; and
- (d) there are compelling reasons for granting the visa; and
- (e) the applicant has complied substantially with:
 - (i) the conditions that apply or applied to:
 - (A) the last of any entry permits held by the applicant (other than a condition of which the applicant was in breach solely because of the expiry of the entry permit); and
 - (B) any subsequent bridging visa; or
 - (ii) the conditions that apply or applied to:
 - (A) the last of any substantive visas held by the applicant (other than a condition of which the applicant was in breach solely because the visa ceased to be in effect); and
 - (B) any subsequent bridging visa; and
- (f) either:
 - (i) in the case of an applicant referred to in paragraph (a) — the applicant would have been entitled to be granted a visa of the class applied for if the applicant had applied for the visa on the day when the applicant last held a substantive or criminal justice visa; or

-
- (ii) in the case of an applicant referred to in paragraph (b) — the applicant would have satisfied the criteria (other than any Schedule 3 criteria) for the grant of a visa of the class applied for on the day when the applicant last entered Australia unlawfully; and
- (g) the applicant intends to comply with any conditions subject to which the visa is granted; and
- (h) if the last visa (if any) held by the applicant was a transitional (temporary) visa, that visa was not subject to a condition that the holder would not, after entering Australia, be entitled to be granted an entry permit, or a further entry permit, while the holder remained in Australia.
- 3005 A visa or entry permit has not previously been granted to the applicant on the basis of the satisfaction of any of the criteria set out in:
- (a) this Schedule; or
- (b) Schedule 6 of the Migration (1993) Regulations; or
- (c) regulation 35AA or subregulation 42 (1A) or (1C) of the Migration (1989) Regulations.

Note Section 10 of the Act provides that a child who was born in the migration zone and was a non-citizen when he or she was born shall be taken to have entered Australia when he or she was born.

Schedule 4 Public interest criteria and related provisions

(regulation 1.03)

Part 1 Public interest criteria

- 4001 Either:
- (a) the applicant satisfies the Minister that the applicant passes the character test; or
 - (b) the Minister is satisfied, after appropriate inquiries, that there is nothing to indicate that the applicant would fail to satisfy the Minister that the person passes the character test; or
 - (c) the Minister has decided not to refuse to grant a visa to the applicant despite reasonably suspecting that the applicant does not pass the character test; or
 - (d) the Minister has decided not to refuse to grant a visa to the applicant despite not being satisfied that the applicant passes the character test.
- 4002 The applicant is not assessed by the Australian Security Intelligence Organisation to be directly or indirectly a risk to security, within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*.
- 4003 The applicant is not determined by the Foreign Minister, or a person authorised by the Foreign Minister, to be a person whose presence in Australia:
- (a) is, or would be, contrary to Australia's foreign policy interests; or
 - (b) may be directly or indirectly associated with the proliferation of weapons of mass destruction.
- 4003A The applicant is not determined by the Foreign Minister, or a person authorised by the Foreign Minister, to be a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction.

- 4004 The applicant does not have outstanding debts to the Commonwealth unless the Minister is satisfied that appropriate arrangements have been made for payment.
- 4005 The applicant:
- (a) is free from tuberculosis; and
 - (b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
 - (c) is not a person who has a disease or condition to which the following subparagraphs apply:
 - (i) the disease or condition is such that a person who has it would be likely to:
 - (A) require health care or community services; or
 - (B) meet the medical criteria for the provision of a community service;during the period of the applicant's proposed stay in Australia;
 - (ii) provision of the health care or community services relating to the disease or condition would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and
 - (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment, the applicant has provided such an undertaking.
- 4006A (1) The applicant:
- (a) is free from tuberculosis; and

-
- (b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
- (c) subject to subclause (2), is not a person who has a disease or condition to which the following subparagraphs apply:
- (i) the disease or condition is such that a person who has it would be likely to:
 - (A) require health care or community services; or
 - (B) meet the medical criteria for the provision of a community service;during the period of the applicant's proposed stay in Australia;
 - (ii) provision of the health care or community services relating to the disease or condition would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and
- (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment, the applicant has provided such an undertaking.
- (2) The Minister may waive the requirements of paragraph (1) (c) if the relevant employer has given the Minister a written undertaking that the relevant employer will meet all costs related to the disease or condition that causes the applicant to fail to meet the requirements of that paragraph.

(3) In subclause (2), *relevant employer* means the proposed employer (within the meaning of the relevant Part of Schedule 2) in Australia:

- (a) of the applicant (if the applicant is an applicant to whom the primary criteria apply); or
- (b) if the applicant is an applicant to whom the secondary criteria apply — of the person:
 - (i) who meets the primary criteria; and
 - (ii) of whose family unit the applicant is a member.

4007

- (1) The applicant:
 - (a) is free from tuberculosis; and
 - (b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
 - (c) subject to subclause (2), is not a person who has a disease or condition to which the following subparagraphs apply:
 - (i) the disease or condition is such that a person who has it would be likely to:
 - (A) require health care or community services; or
 - (B) meet the medical criteria for the provision of a community service;during the period of the applicant's proposed stay in Australia;
 - (ii) provision of the health care or community services relating to the disease or condition would be likely to:
 - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
 - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and

-
- (d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment, the applicant has provided such an undertaking.
- (2) The Minister may waive the requirements of paragraph (1) (c) if:
- (a) the applicant satisfies all other criteria for the grant of the visa applied for; and
- (b) the Minister is satisfied that the granting of the visa would be unlikely to result in:
- (i) undue cost to the Australian community; or
- (ii) undue prejudice to the access to health care or community services of an Australian citizen or permanent resident.

- 4009 The applicant:
- (a) intends to live permanently in Australia; and
- (b) if the applicant seeks entry to Australia as a member of a family unit, also satisfies the Minister that the applicant could obtain support in Australia from other members of the family unit.
- 4010 If the applicant seeks to remain in Australia permanently, or temporarily for longer than 12 months, the applicant is likely to become established in Australia without undue personal difficulty and without imposing undue difficulties or costs on the Australian community.
- 4011 (1) If the applicant is affected by the risk factor specified in subclause (2), the applicant satisfies the Minister that, having regard to the applicant's circumstances in the applicant's country of usual residence, there is very little likelihood that the applicant will remain after the expiry of any period during which the applicant might be authorised to remain after entry.

- (2) An applicant is affected by the risk factor referred to in subclause (1) if:
- (a) during the period of 5 years immediately preceding the application, the applicant has applied for a visa or entry permit for the purpose of permanent residence in Australia; or
 - (b) the applicant has all the characteristics of a class of persons specified by the Minister by Gazette Notice for the purposes of this paragraph.
- (2A) In specifying a class of persons for the purposes of paragraph (2) (b), the Minister must have regard to statistics prepared by the Secretary:
- (a) from movement records kept by Immigration about persons who have remained in Australia after expiry of the period during which each person was authorised to remain in Australia under the visa with which he or she last entered Australia; and
 - (b) having regard to one or more of the characteristics mentioned in subclause (3).
- (3) For the purposes of paragraph (2) (b), a characteristic is any of the following:
- (a) nationality;
 - (b) marital or relationship status;
 - (c) age;
 - (d) sex;
 - (e) occupation;
 - (f) the class of visa currently applied for;
 - (g) the place of lodgment or posting of the application for that visa.

- 4012 In the case of an applicant:
- (a) who has not turned 18; and
 - (b) whose intended stay in Australia will not be in the company of either or both of his or her parents or guardians; and

-
- (c) whose application expresses an intention to visit, or stay with, a person in Australia who is not a relative of the applicant; and
 - (d) who is not a member of an organised tour and for whom no adequate maintenance and support arrangements have been made for the total period of stay in Australia;
an undertaking to provide accommodation for, and to be responsible for the support and general welfare of, the applicant during the applicant's stay in Australia is given to the Minister by a person who, in the reasonable belief of the Minister, is of good character.

4012A In the case of an applicant who has not turned 18 and who is not an AusAID student or a Defence student:

- (a) the application expresses a genuine intention to reside in Australia with a person who:
 - (i) is a parent of the applicant or a person who has custody of the applicant; or
 - (ii) is:
 - (A) a relative of the applicant; and
 - (B) nominated by a parent of the applicant or a person who has custody of the applicant; and
 - (C) aged at least 21; and
 - (D) of good character; or
- (b) a signed statement is given to the Minister by the education provider for the course in which the applicant is enrolled confirming that appropriate arrangements have been made for the applicant's accommodation, support and general welfare for at least the minimum period of enrolment stated on the applicant's:
 - (i) certificate of enrolment; or
 - (ii) electronic confirmation of enrolment; or
 - (iii) Acceptance Advice of Secondary Exchange Student (AASES);plus 7 days after the end of that period.

- 4013 (1) If the applicant is affected by a risk factor mentioned in subclause (1A), (2), (2A), (3), (4), or (5):
- (a) the application is made more than 3 years after the cancellation of the visa or temporary entry permit, or the determination of the Minister, as the case may be, referred to in the subclause that relates to the applicant; or
 - (b) the Minister is satisfied that, in the particular case:
 - (i) compelling circumstances that affect the interests of Australia; or
 - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;
- justify the granting of the visa within 3 years after the cancellation or determination.
- (1A) A person is affected by a risk factor if a visa previously held by the person was cancelled:
- (a) under section 109 or paragraph 116 (1) (d) of the Act; or
 - (b) under section 128 of the Act because the Minister was satisfied that the ground mentioned in paragraph 116 (1) (d) of the Act applied to the person.
- (2) A person is affected by a risk factor if a visa previously held by the person was cancelled under section 116 or 128 of the Act:
- (a) because the person was found by Immigration to have worked without authority; or
 - (b) if the visa was of a subclass specified in Part 2 of this Schedule — because the person did not comply with a condition specified in that Part in relation to that subclass; or
 - (c) if the visa was a Subclass 773 (Border) visa and, at the time of grant of the visa, the person was apparently eligible for a substantive visa of a subclass specified in Part 2 of this Schedule — because the person did not comply with a condition specified in that Part in relation to that subclass of substantive visa; or

-
- (ca) because the person held a student visa and the Minister was satisfied that a ground mentioned in paragraph 116 (1) (fa) of the Act applied to the person; or
 - (d) because the Minister was satisfied that a ground prescribed by paragraph 2.43 (1) (i), (j), (k), (ka), (m) or (o) applied to the person.

(2A) A person is affected by a risk factor if a visa previously held by the person was cancelled under section 137J of the Act.

(3) A person is affected by a risk factor if a temporary entry permit previously held by the person was cancelled under section 35 of the Act as in force before 1 September 1994 because the person was found by Immigration to have worked without authority.

(4) A person is affected by a risk factor if a temporary entry permit previously held by the person ceased to be in force as a result of a determination made by the Minister before 1 September 1994 that the person had failed to comply with a terminating condition to which the entry permit was subject.

(5) A person is affected by a risk factor if, before 1 September 1994, the person left Australia because the Minister made a determination under regulation 2.38 of the Migration (1993) Regulations that the person contravened a condition of an entry permit held by the person, whether or not the period of effect of that entry permit had expired at the time of the determination.

- 4014
- (1) If the applicant is affected by either of the risk factors specified in subclauses (2) and (4):
 - (a) the application is made more than 3 years after the departure of the person from Australia referred to in that subclause; or
 - (b) the Minister is satisfied that, in the particular case:
 - (i) compelling circumstances that affect the interests of Australia; or

- (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;

justify the granting of the visa within 3 years after the departure.

(2) Subject to subclause (3), a person is affected by a risk factor if the person left Australia after the expiry of a period of grace that applied to the person under section 13 of the Act as in force before 1 September 1994, being a period of grace that expired before 1 September 1994.

(3) Subclause (2) does not apply to a person who:

- (a) applied for review by the Migration Review Tribunal or the Refugee Review Tribunal; and
- (b) left Australia within 7 days of being notified of the decision on the application for review.

(4) Subject to subclause (5), a person is affected by a risk factor if the person left Australia as:

- (a) an unlawful non-citizen; or
- (b) the holder of a Bridging C (Class (WC), Bridging D (Class WD) or Bridging E (Class WE) visa.

(5) Subclause (4) does not to apply to a person if:

- (a) the person left Australia within 28 days after a substantive visa held by the person ceased to be in effect or an entry permit held by the person expired, as the case requires; or
- (b) a bridging visa held by the person at the time of departure was granted:
 - (i) within 28 days after a substantive visa held by the person ceased to be in effect or an entry permit held by the person expired, as the case requires; or
 - (ii) while the person held another bridging visa granted:
 - (A) while the person held a substantive visa; or
 - (B) within 28 days after a substantive visa held by the person ceased to be in effect or an entry permit held by the person expired, as the case may be.

- 4015 The Minister is satisfied of 1 of the following:
- (a) the law of the additional applicant's home country permits the removal of the additional applicant;
 - (b) each person who can lawfully determine where the additional applicant is to live consents to the grant of the visa;
 - (c) the grant of the visa would be consistent with any Australian child order in force in relation to the additional applicant.
- 4016 The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the additional applicant.
- 4017 The Minister is satisfied of 1 of the following:
- (a) the law of the applicant's home country permits the removal of the applicant;
 - (b) each person who can lawfully determine where the applicant is to live consents to the grant of the visa;
 - (c) the grant of the visa would be consistent with any Australian child order in force in relation to the applicant.
- 4018 The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the applicant.
- 4019 (1) The applicant has signed a statement (a *values statement*) in accordance with Part 3.
- Note* Part 3 sets out further provisions relating to values statements and the requirements for this criterion.
- (2) However, if compelling circumstances exist, the Minister may decide that the applicant is not required to satisfy subclause (1).

Part 2 Conditions applicable to certain subclasses of visas for the purposes of subclause 4013 (2)

Column 1 Item	Column 2 Visa Subclass	Column 3 Conditions
4050	405 (Investor Retirement)	8104
4051	410 (Retirement)	8101 or 8104
4052	419 (Visiting Academic)	8103
4055	442 (Occupational Trainee)	8102
4055AA	470 (Professional Development)	8102, 8501, 8531 or 8536
4055AB	488 (Superyacht Crew)	8107 or 8114
4055A	497 (Graduate — Skilled)	8501
4056	560 (Student)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4057	562 (Iranian Postgraduate Student)	8105, 8202, 8501 or 8517
4058	563 (Iranian Postgraduate Student (Dependant))	8104, 8501 or 8518
4058A	570 (Independent ELICOS Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058B	571 (Schools Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058C	572 (Vocational Education and Training Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058D	573 (Higher Education Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518

Column 1 Item	Column 2 Visa Subclass	Column 3 Conditions
4058E	574 (Postgraduate Research Sector)	8101, 8104, 8105,
	574 (Masters and Doctorate Sector)	8202, 8501, 8517 or 8518
4058F	575 (Non-Award Sector)	8101, 8104, 8105,
	575 (Non-award Foundation/Other Sector)	8202, 8501, 8517 or 8518
4058G	576 (AusAID or Defence Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058H	651 (eVisitor)	8101 or 8201
4059	661 (Tourist (Special Arrangements))	8101 or 8201
4060	670 (Tourist (Short Stay))	8101 or 8201
4061	672 (Business Visitor (Short Stay))	8201
4062	673 (Close Family Visitor (Short Stay))	8101 or 8201
4063	674 (Visitor (Other) (Short Stay))	8101 or 8201
4064	675 (Medical Treatment (Short Stay))	8101 or 8201
4065	676 (Tourist (Short Stay))	8101 or 8201
4065A	676 (Tourist)	8101 or 8201
4066	680 (Tourist)	8101 or 8201
4067	682 (Business Visitor)	8201
4068	683 (Close Family Visitor)	8101 or 8201
4069	684 (Visitor (Other))	8101 or 8201
4070	685 (Medical)	8101 or 8201
4071	686 (Tourist (Long Stay))	8101 or 8201
4072	771 (Transit)	8101 or 8201
4073	956 (Electronic Travel Authority (Business Entrant — Long Validity))	8201

Column 1 Item	Column 2 Visa Subclass	Column 3 Conditions
4074	976 (Electronic Travel Authority (Visitor))	8101 or 8201
4075	977 (Electronic Travel Authority (Business Entrant — Short Validity))	8201

Part 3 Requirements for public interest criterion 4019

3.1 Values statement

Statement

- (1) For public interest criterion 4019, the Minister must, by instrument in writing, approve one or more values statements for the subclasses of visas specified in the instrument.
- (2) A values statement must include provisions relating to:
 - (a) values that are important to Australian society; and
 - (b) matters concerning Australian citizenship (if relevant); and
 - (c) compliance with the laws of Australia.
- (3) A values statement may include other provisions.

Signing values statement — Internet application

- (4) For public interest criterion 4019, a values statement is taken to have been signed by an applicant who makes an Internet application if the instructions for signing the values statement are followed.

Schedule 5 **Special return criteria**

(regulation 1.03)

- 5001 The applicant is not:
- (a) a person who left Australia while the subject of a deportation order under:
 - (i) section 200 of the Act; or
 - (ii) section 55, 56 or 57 of the Act as in force on and after 19 December 1989 but before 1 September 1994; or
 - (iii) section 12, 13 or 14 of the Act as in force before 19 December 1989; or
 - (b) a person whose visa has been cancelled under section 501 of the Act, as in force before 1 June 1999, wholly or partly because the Minister, having regard to the person's past criminal conduct, was satisfied that the person is not of good character; or
 - (c) a person whose visa has been cancelled under section 501, 501A or 501B of the Act, wholly or partly because of paragraph 501 (6) (a), subparagraph 501 (6) (c) (i) or subparagraphs 501 (6) (c) (i) and (ii) of the Act, if the cancellation has not been revoked under subsection 501C (4) of the Act.
- 5002 If the applicant is a person who has been removed from Australia under section 198, 199 or 205 of the Act:
- (a) the application is made more than 12 months after the removal; or
 - (b) the Minister is satisfied that, in the particular case:
 - (i) compelling circumstances that affect the interests of Australia; or
 - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;

justify the granting of the visa within 12 months after the removal.

- 5010 (1) If:
- (a) the applicant is the holder of an AusAID student visa; or
 - (b) the applicant is the holder of a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant who is provided financial support by the government of a foreign country;
- the applicant meets the requirements of subclause (3), (4) or (5).
- (2) If:
- (a) the applicant is not the holder of an AusAID student visa and has in the past held an AusAID student visa; or
 - (b) both:
 - (i) paragraph (a) does not apply to the applicant, and the applicant is not the holder of a substantive visa; and
 - (ii) the last substantive visa held by the applicant was a Subclass 560, 562, 563, 570, 571, 572, 573, 574 or 575 visa granted to the applicant who was provided financial support by the government of a foreign country;
- the applicant meets the requirements of subclause (3), (4) or (5).
- (3) The applicant meets the requirements of this subclause if the course of study or training to which:
- (a) the visa mentioned in paragraph (1) (a) or (b) relates; or
 - (b) if paragraph (2) (a) applies — the AusAID student visa most recently held by the applicant related; or
 - (c) if paragraph (2) (b) applies — the last substantive visa held by the applicant related;
- (whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months.

(4) The applicant meets the requirements of this subclause if the applicant:

(a) has ceased:

(i) the course of study or training to which:

(A) the visa mentioned in paragraph (1) (a) or (b) relates; or

(B) if paragraph (2) (a) applies — the AusAID student visa most recently held by the applicant related; or

(C) if paragraph (2) (b) applies — the last substantive visa held by the applicant related; or

(ii) another course approved by the AusAID Minister or the government of the foreign country that provided financial support to the applicant, as the case requires, in substitution for that course; and

(b) has spent at least 2 years outside Australia since ceasing the course.

(5) The applicant meets the requirements of this subclause if:

(a) the applicant has the support of the AusAID Minister or the government of the foreign country that provided financial support to the applicant, as the case requires, for the grant of the visa; or

(b) the Minister is satisfied that, in the particular case, waiving the requirement of paragraph (a) is justified by:

(i) compelling circumstances that affect the interests of Australia; or

(ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

(6) In this clause:

AusAID student visa has the same meaning as in regulation 1.04A.

cease has the same meaning as in regulation 1.04A.

Schedule 5A Evidentiary requirements for student visas

(regulation 1.44)

Part 1 Preliminary

5A101 Definitions

In this Schedule:

AASES (Acceptance Advice of Secondary Exchange Student), for a secondary exchange student, has the meaning given by clause 5A107.

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support that it proposes to provide.

course fees, for an applicant in relation to a period, means the fees for each course proposed to be undertaken by the applicant in the period, as indicated by the proposed education providers in a letter or other document.

family applicant, for an applicant, means a member of the applicant's family unit who is a visa applicant seeking to satisfy secondary criteria in relation to the applicant.

financial institution means a body corporate that, as part of its normal activities:

- (a) takes money on deposit and makes advances of money; and
- (b) does so under a regulatory regime, governed by the central bank (or its equivalent) of the country in which it operates, that the Minister is satisfied provides effective prudential assurance.

first 12 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 12 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 24 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 24 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 36 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 36 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

foundation course means a registered course that is registered as foundation studies.

Note ***Registered course*** is defined in regulation 1.03.

full period, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; and
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the last day of the applicant's proposed stay in Australia.

fully funded has the meaning given by clause 5A103.

initial period, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; and
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 12 months after the expected commencement date of the applicant's principal course;
 - (ii) the last day of the applicant's proposed stay in Australia.

living costs has the meaning given by subclause 5A104 (1).

money deposit means a money deposit with a financial institution.

school costs has the meaning given by subclause 5A104 (2).

travel costs, for an applicant, means the sum of costs for each of the applicant and any family applicant:

-
- (a) if the applicant or family applicant is not in Australia when the application is made — of travelling to Australia; and
 - (b) of returning to the applicant's home country at the end of his or her stay.

5A102 Gazettal of alternatives to the IELTS test

The Minister may specify in a Gazette Notice:

- (a) an English language proficiency test as an alternative to the IELTS test; and
- (b) the foreign country or countries in which that test may be taken by an applicant; and
- (c) the test score that must be achieved by the applicant for this clause.

5A103 Meaning of fully funded

- (1) An applicant is *fully funded* if the applicant's costs listed in subclause (2) will be met by one or more of the following:
 - (a) a multilateral agency;
 - (b) the government of a foreign country;
 - (c) the Commonwealth Government, or the government of a State or Territory.
- (2) The costs for subclause (1) are the following costs for the applicant's full period, assessed for the applicant alone:
 - (a) course fees;
 - (b) living costs;
 - (c) travel costs.

5A104 Meaning of living costs and school costs

- (1) An applicant's *living costs* for a period are taken to accrue at the sum of the rates set out in the following table:

Item	Description of applicant	Rate
1	<p>Applicant who is subject to assessment level 2, 3 or 4, and who is:</p> <ul style="list-style-type: none"> (a) fully funded; or (b) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by: <ul style="list-style-type: none"> (i) a provincial or state government in a foreign country, with the written support of the government of that country; or (ii) an organisation specified by the Minister in a Gazette Notice for this clause; or (c) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government 	<ul style="list-style-type: none"> (a) \$12 000 per year (the <i>basic rate</i>); and (b) if the applicant has a spouse or de facto partner who is a family applicant — 35% of the basic rate; and (c) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and (d) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child
2	<p>Applicant:</p> <ul style="list-style-type: none"> (a) who is subject to assessment level 3 or 4; and (b) who is not funded, wholly or partly, by: <ul style="list-style-type: none"> (i) the Commonwealth Government, or the government of a State or Territory; or (ii) the government of a foreign country; or (iii) a multilateral agency; and (c) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and (d) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months 	<ul style="list-style-type: none"> (a) \$12 000 per year (the <i>basic rate</i>); and (b) if the applicant has a spouse or de facto partner who is a family applicant — 35% of the basic rate; and (c) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and (d) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child

Item	Description of applicant	Rate
3	Applicant who: (a) is subject to assessment level 2; and (b) has the support of the AusAID Minister or the Defence Minister	(a) \$12 000 per year (the basic rate); and (b) if the applicant has a spouse or de facto partner who is a family applicant — 35% of the basic rate; and (c) if the applicant has a dependent child who is a family applicant — 20% of the basic rate; and (d) if the applicant has any further dependent children who are family applicants — 15% of the basic rate for each such child
4	Applicant to whom items 1, 2 and 3 do not apply	(a) \$12 000 per year (the basic rate); and (b) if the applicant has a spouse or de facto partner — 35% of the basic rate; and (c) if the applicant has a dependent child — 20% of the basic rate; and (d) if the applicant has any further dependent children — 15% of the basic rate for each such child

(2) An applicant's *school costs* are taken to accrue at the sum of the rates set out in the following table:

Item	Description of applicant	Rate
1	<p>Applicant who is subject to assessment level 2, 3 or 4, and who is:</p> <p>(a) fully funded; or</p> <p>(b) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:</p> <p>(i) a provincial or state government in a foreign country, with the written support of the government of that country; or</p> <p>(ii) an organisation specified by the Minister in a Gazette Notice for this clause; or</p> <p>(c) the holder of an International Postgraduate Research Scholarship funded by the Commonwealth Government</p>	<p>\$8 000 per year for each child who is:</p> <p>(a) a school-age dependant at the time; and</p> <p>(b) a family applicant</p>
2	<p>Applicant:</p> <p>(a) who is subject to assessment level 3 or 4; and</p> <p>(b) who is not funded, wholly or partly, by:</p> <p>(i) the Commonwealth Government, or the government of a State or Territory; or</p> <p>(ii) the government of a foreign country; or</p> <p>(iii) a multilateral agency; and</p> <p>(c) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and</p>	<p>\$8 000 per year for each child who is:</p> <p>(a) a school-age dependant at the time; and</p> <p>(b) a family applicant</p>

Item	Description of applicant	Rate
	(d) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months	
3	Applicant who: (a) is subject to assessment level 2; and (b) has the support of the AusAID Minister or the Defence Minister	\$8 000 per year for each child who is: (a) a school-age dependant at the time; and (b) a family applicant
4	Applicant to whom items 1, 2 and 3 do not apply	\$8 000 per year for each child who is a school-age dependant at the time (whether or not the child is a family applicant)

5A106 Satisfying a proposed education provider about English language proficiency

A provision in this Schedule that requires an applicant to give evidence of a level of English language proficiency that satisfies his or her proposed education provider requires evidence that the education provider of each of the applicant's proposed courses is satisfied that the applicant will, when the course begins, have an adequate level of English language proficiency, taking into account any ELICOS or other course that the applicant will undertake in Australia before the course concerned.

5A107 Secondary exchange student must give AASES

An applicant seeking to satisfy the primary criteria in Subclass 571 (Schools Sector) who is a secondary exchange student must give the declarations made by:

- (a) the applicant's exchange organisation, accepting the student; and

- (b) the applicant's parents, or the person or persons having custody of the applicant, agreeing to the exchange;
on an Acceptance Advice of Secondary Exchange Student form from the relevant State or Territory education authority (the *AASES* for the applicant).

Note For the definition of *custody*, see regulation 1.03.

5A108 Applicant must show enrolment or offer of place

- (1) If the applicant is not a secondary exchange student, or is not seeking to satisfy primary criteria in Subclass 576 (AusAID or Defence Sector), or did not make his or her application using form 157E, the applicant must give, for each course proposed to be undertaken under the visa:
- (a) a certificate of enrolment; or
 - (b) evidence that the applicant has been offered a place in the course.
- (2) Subclause (1) does not apply to an applicant seeking to satisfy primary criteria in Subclass 574 (Postgraduate Research Sector) if:
- (a) his or her application was made in Australia; and
 - (b) at the time of the application, the applicant was the holder of a Subclass 560, 562 or 574 visa; and
 - (c) in connection with a course of study or with a matter arising from the course, the relevant educational institution requires the applicant to remain in Australia during the marking of a postgraduate thesis.

5A109 Requirement to give declaration

In this Schedule, if:

- (a) an applicant is required to give a declaration for any purpose; and
- (b) the applicant is less than 18 years of age —

the requirement to give the declaration is to be read as a requirement for a parent of the applicant, or a person having custody of the applicant, to give the declaration on the applicant's behalf.

Part 2 Subclass 570 (Independent ELICOS Sector)

Division 1 Requirements for assessment level 5

5A201 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A202 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A203 Other requirements

The applicant must give evidence that:

- (a) the ELICOS that he or she is to undertake will be of no more than 40 weeks duration; and
- (b) the applicant has the educational qualifications required by his or her education provider; and
- (c) satisfies the Minister that the applicant needs English language tuition:
 - (i) to obtain employment; or

- (ii) to improve his or her prospects of promotion or of obtaining other employment; or
- (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A204 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (b) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider;
- (c) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and

-
- (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
 - (d) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102.

5A205 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

- (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and

- (B) the reciprocal waiver of course fees as part of that agreement;
- (ii) the applicant proposes to study full-time;
- (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) financial support from:
 - (i) the government of a foreign country; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) a multilateral agency; or
 - (iv) the applicant's proposed education provider; or
 - (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (vii) an acceptable non-profit organisation;
- (c) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;
- (d) a loan from the government of the applicant's home country.

5A206 Other requirements

The applicant must give evidence:

- (a) that the ELICOS that he or she is to undertake will be of no more than 40 weeks duration; and
- (b) that the applicant has the educational qualifications required by his or her education provider.

Division 3 Requirements for assessment level 3

5A207 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A208 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and

- (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
- (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:

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- (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) a money deposit that the applicant, or an individual who is providing support to the applicant, has held for at least the 3 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the Commonwealth Government, or the government of a State or Territory; or
 - (ii) the government of a foreign country; or
 - (iii) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (iv) a multilateral agency; or
 - (v) the applicant's proposed education provider; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A209 Other requirements

The applicant must give evidence:

- (a) of his or her previous schooling, training or other study; and
- (b) that the ELICOS that he or she is to undertake will be of no more than 50 weeks duration.

Division 4 Requirements for assessment level 2

5A210 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A211 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:

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- (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A212 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by his or her education provider.

Division 5 Requirements for assessment level 1

5A213 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A214 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

Part 3 Subclass 571 (Schools Sector)

Division 1 Requirements for assessment level 5

5A301 English language proficiency

- (1) If the applicant is not a secondary exchange student, the applicant must give evidence that he or she achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.
- (2) If the applicant is a secondary exchange student, the applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A302 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) the applicant has a further \$12 000; and
- (c) the applicant has funds that are sufficient to meet the following expenses for the period of 12 months following the full period:
 - (i) living costs;
 - (ii) school costs; and
- (d) the applicant has funds that are sufficient to meet travel costs; and
- (e) the funds (including the amount mentioned in paragraph (b)) have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
- (f) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A303 Other requirements

- (1) If the applicant is not a secondary exchange student, the applicant must give evidence that:
 - (a) he or she is to undertake schooling in Australia at the secondary level for at least 2 years; and
 - (b) he or she has successfully completed secondary schooling to at least the year 9 level (or its equivalent); and
 - (c) the principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position; and
 - (d) he or she was, or will be:
 - (i) if proposing to undertake year 9 studies — less than 17 years old when commencing Year 9; and
 - (ii) if proposing to undertake year 10 studies — less than 18 years old when commencing Year 10; and
 - (iii) if proposing to undertake year 11 studies — less than 19 years old when commencing Year 11; and
 - (iv) if proposing to undertake year 12 studies — less than 20 years old when commencing Year 12.
- (2) The applicant must not undertake studies at the year 8 level or lower unless he or she is a secondary exchange student.

Division 2 Requirements for assessment level 4

5A304 English language proficiency

- (1) An applicant:
 - (a) who is a secondary exchange student; or
 - (b) who is in Australia at time of application; or
 - (c) who is:
 - (i) outside Australia at time of application; and
 - (ii) less than 16 years old at time of application; or

- (d) who:
 - (i) applies before 1 April 2004; and
 - (ii) is outside Australia at time of application; and
 - (iii) is at least 16 years old at time of application; or
- (e) who has undertaken at least 5 years of study in English in 1 or more of the following countries:
 - (i) Australia;
 - (ii) Canada;
 - (iii) New Zealand;
 - (iv) South Africa;
 - (v) the Republic of Ireland;
 - (vi) the United Kingdom;
 - (vii) the United States of America;

must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

- (2) An applicant who:
 - (a) is not a secondary exchange student; and
 - (b) will undertake an ELICOS (or other English language tuition) before commencing his or her principal course;must give evidence that the ELICOS (or other English language tuition) will have a duration of no more than 30 weeks.
- (3) An applicant:
 - (a) to whom subclause (1) does not apply; and
 - (b) who is not undertaking an ELICOS (or other English language tuition) before commencing his or her principal course;must give evidence that he or she achieved, in an IELTS test that was taken less than 2 years before the time of making the decision on the application, an Overall Band Score of at least 5.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102.
- (4) An applicant:
 - (a) to whom subclause (1) does not apply; and

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- (b) is undertaking an ELICOS (or other English language tuition) before commencing his or her principal course;
must give evidence that he or she achieved, in an IELTS test that was taken less than 2 years before the time of making the decision on the application, an Overall Band Score of at least 4.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102.
- (5) The Minister may waive the requirements of subclause (3) or (4).
- (6) If the Minister proposes to waive the requirements of subclause (3) or (4) in relation to an application made by a PRC applicant, the Minister must be satisfied of the matters in subclause (7) or (8).
- (7) For subclause (6), the Minister:
- (a) must be satisfied that:
- (i) the PRC applicant has achieved satisfactory results in an English language proficiency test conducted under appropriate test conditions, other than:
- (A) an IELTS test; or
- (B) an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and
- (ii) the PRC applicant has a written statement from the education provider of the PRC applicant's proposed principal course, supporting the waiver of the requirements of the subclause; or
- (b) must be satisfied that:
- (i) the PRC applicant has been accepted into the academic stream in the senior secondary school system of the PRC; and
- (ii) the PRC applicant has achieved a result of at least 75% in English language studies for the PRC applicant's Certificate of Graduation from Junior Secondary School; and

- (iii) the PRC applicant has a written statement from the education provider of the PRC applicant's proposed principal course, supporting the waiver of the requirements of the subclause.
- (8) For subclause (6), the Minister:
- (a) must be satisfied that:
 - (i) the PRC applicant has achieved satisfactory results in an English language proficiency test conducted under appropriate test conditions, other than:
 - (A) an IELTS test; or
 - (B) an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and
 - (ii) the application was made by a PRC applicant, and lodged by an agent of the education provider; and
 - (iii) the education provider has nominated the agent to represent the provider; and
 - (iv) the agent and the education provider have a written agreement under which the agent represents the provider; and
 - (v) the agent has lodged at least 10 applications made by PRC applicants in the financial year ending before the start of the designated period in which the current application is made; and
 - (vi) at least 70% of the applications that were lodged by the agent for PRC applicants, and decided in the financial year ending before the start of the designated period in which the current application is made, resulted in the grant of Subclass 571 visas; and
 - (vii) the agent agrees to give the education provider information, each month, about:
 - (A) the number of applications that the agent lodges that were made by PRC applicants who have been offered a place in a principal course provided by the provider; and
 - (B) the results of those applications; and

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- (viii) the agent agrees to the Minister giving the education provider information about:
- (A) the number of applications that the agent lodges that were made by PRC applicants (including PRC applicants who were offered a place in a principal course provided by the provider); and
 - (B) the results of those applications; or
- (b) must be satisfied that:
- (i) the PRC applicant has been accepted into the academic stream in the senior secondary school system of the PRC; and
 - (ii) the PRC applicant has achieved a result of at least 75% in English language studies for the PRC applicant's Certificate of Graduation from Junior Secondary School; and
 - (iii) the application was made by a PRC applicant, and lodged by an agent of the education provider; and
 - (iv) the education provider has nominated the agent to represent the provider; and
 - (v) the agent and the education provider have a written agreement under which the agent represents the provider; and
 - (vi) the agent has lodged at least 10 applications made by PRC applicants in the financial year ending before the start of the designated period in which the current application is made; and
 - (vii) at least 70% of the applications that were lodged by the agent for PRC applicants, and decided in the financial year ending before the start of the designated period in which the current application is made, resulted in the grant of Subclass 571 visas; and
 - (viii) the agent agrees to give the education provider information, each month, about:
 - (A) the number of applications that the agent lodges that were made by PRC applicants who have been offered a place in a principal course provided by the provider; and

- (B) the results of those applications; and
- (ix) the agent agrees to the Minister giving the education provider information about:
 - (A) the number of applications that the agent lodges that were made by PRC applicants (including PRC applicants who were offered a place in a principal course provided by the provider); and
 - (B) the results of those applications.
- (9) In this clause:
 - designated period*** means:
 - (a) the period of 12 months starting on 1 April in a year; or
 - (b) another period determined by the Minister in writing for this paragraph.
 - PRC applicant*** means a PRC citizen who:
 - (a) is in the PRC; and
 - (b) is not in the Hong Kong Special Administrative Region or the Macau Special Administrative Region; and
 - (c) has applied to undertake, as a principal course, a course gazetted under regulation 1.40A for Subclass 571 visas.
- (10) In subclauses (7) and (8):
 - education provider*** means the education provider of the PRC applicant's proposed principal course.

5A305 Financial capacity

- (1) If the applicant is not a secondary exchange student, the applicant must give evidence, in accordance with this clause, that:
 - (a) the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

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- (b) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months; and
 - (d) the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (e) the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course;
- (aa) if paragraph (a) does not apply — a money deposit held by an acceptable individual;
- (ab) if paragraph (a) does not apply — a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the applicant's home country;
- (d) financial support (such as a scholarship) from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or

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- (iv) a multilateral agency; or
 - (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (vii) an acceptable non-profit organisation.

5A306 Other requirements

- (1) If the applicant is not a secondary exchange student, the applicant:
 - (a) must give evidence that:
 - (i) either:
 - (A) the principal course will be of at least 16 months duration; or
 - (B) he or she has undertaken, outside Australia, a secondary course of at least 2 years duration with an Australian curriculum and conducted in English by an Australian provider and is recognised by the relevant State or Territory education authority as meeting the requirements for successful completion of those years; and
 - (ii) he or she has successfully completed secondary schooling to at least the Year 9 level (or its equivalent); and
 - (iii) he or she was, or will be:
 - (A) if proposing to undertake year 9 studies — less than 17 years old when commencing Year 9; and
 - (B) if proposing to undertake year 10 studies — less than 18 years old when commencing Year 10; and
 - (C) if proposing to undertake year 11 studies — less than 19 years old when commencing Year 11; and

- (D) if proposing to undertake year 12 studies — less than 20 years old when commencing Year 12; or
- (b) must:
 - (i) lodge his or her visa application in Australia, but not in immigration clearance; and
 - (ii) give evidence that he or she has successfully completed Year 11 secondary schooling in Australia; and
 - (iii) give evidence that he or she is enrolled in Year 12 in Australia.
- (2) The applicant must not undertake studies at the year 8 level or lower unless he or she is a secondary exchange student.

Division 3 Requirements for assessment level 3

5A307 English language proficiency

- (1) The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.
- (2) If the applicant:
 - (a) is not a secondary exchange student; and
 - (b) must undertake an ELICOS (or other English language bridging course) before commencing his or her principal course in order to satisfy the English language proficiency requirements of the education provider;
he or she must give evidence that the ELICOS (or other English language bridging course) will have a duration of no more than 40 weeks.

5A308 Financial capacity

- (1) If the applicant is not a secondary exchange student, the applicant must give, in accordance with this clause, evidence that:

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- (a) the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months; and
 - (b) the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:

(i) a provincial or state government in a foreign country, with the written support of the government of that country; or

(ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause, *funds from an acceptable source* means one or more of the following:

(a) if the applicant:

(i) has successfully completed at least 75% of the requirements for his or her principal course; and

(ii) has applied for the visa in order to complete the course; and

(iii) does not propose to undertake any further course;

a money deposit held by the applicant or a person providing support to the applicant;

(aa) if paragraph (a) does not apply — a money deposit that the applicant, or a person providing support to the applicant, has held for at least the 3 months immediately before the date of the application;

(b) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;

(c) a loan from the government of the applicant's home country;

(d) financial support (such as a scholarship) from:

(i) the applicant's proposed education provider; or

(ii) the Commonwealth Government, or the government of a State or Territory; or

(iii) the government of a foreign country; or

(iv) a corporation that:

(A) conducts commercial activities outside the country in which it is based; and

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- (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A309 Other requirements

If the applicant is not a secondary exchange student, the applicant:

- (a) must give evidence that:
 - (i) either:
 - (A) the principal course will be of at least 16 months duration; or
 - (B) he or she has undertaken, outside Australia, a secondary course of at least 2 years duration with an Australian curriculum and conducted in English by an Australian provider and is recognised by the relevant State or Territory education authority as meeting the requirements for successful completion of those years; and
 - (ii) he or she has successfully completed schooling to at least the Year 6 level (or its equivalent); and
 - (iii) he or she was, or will be:
 - (A) if proposing to undertake year 9 studies — less than 17 years old when commencing Year 9; and
 - (B) if proposing to undertake year 10 studies — less than 18 years old when commencing Year 10; and

- (C) if proposing to undertake year 11 studies — less than 19 years old when commencing Year 11; and
 - (D) if proposing to undertake year 12 studies — less than 20 years old when commencing Year 12; or
- (b) must:
- (i) lodge his or her visa application in Australia, but not in immigration clearance; and
 - (ii) give evidence that he or she has successfully completed Year 11 secondary schooling in Australia; and
 - (iii) give evidence that he or she is enrolled in Year 12 in Australia.

Division 4 Requirements for assessment level 2

5A310 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A311 Financial capacity

- (1) If the applicant is not a secondary exchange student, the applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and

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- (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;
- the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A312 Other requirements

If the applicant is not a secondary exchange student, the applicant must:

- (a) give evidence that, at the time of making the application, he or she was at least 6 years old; and
- (b) give evidence that he or she has the educational qualifications required by his or her education provider.

Division 5 Requirements for assessment level 1

5A313 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A314 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

5A315 Other requirements

If the applicant is not a secondary exchange student, the applicant must:

- (a) give evidence that, at the time of making the application, he or she was at least 6 years old; and
- (b) give evidence that he or she has the educational qualifications required by his or her education provider.

Part 4 Subclass 572 (Vocational Education and Training Sector)

Division 1 Requirements for assessment level 5

5A401 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A402 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

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- (b) the applicant has funds that are sufficient to meet travel costs; and
 - (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
 - (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A403 Other requirements

- (1) The applicant must give evidence:
 - (a) that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
 - (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or
 - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or
 - (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course; and
 - (c) that the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position.
- (2) In this clause, *vocational education and training course* means a vocational education and training course that is at the diploma or advanced diploma level.

Division 2 Requirements for assessment level 4

5A404 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
 - (i) will undertake an ELICOS of no more than 20 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
- (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 20 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

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- (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
 - (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;

- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A405 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) an applicant:

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- (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
- (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de fact partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course; a money deposit held by an acceptable individual;

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- (aa) if paragraph (a) does not apply — a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
 - (b) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation;
 - (c) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;
 - (d) a loan from the government of the applicant's home country.

5A406 Other requirements

- (1) The applicant must give evidence:
 - (a) that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
 - (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or
 - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or

- (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course.
- (2) In this clause, *vocational education and training course* means a vocational education and training course that:
- (a) leads to the award of a qualification from the Australian Qualification Framework at the diploma level; or
 - (b) leads to the award of a qualification from the Australian Qualification Framework at the advanced diploma level; or
 - (c) is a course of at least 1 year's duration that leads to the award of a qualification from the Australian Qualification Framework at the Certificate IV level.

Division 3 Requirements for assessment level 3

5A407 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 4.5;
- (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and

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- (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
 - (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A408 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months; and

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- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause:
financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course;
- (aa) if paragraph (a) does not apply — a money deposit held by the applicant or an individual who is providing support to the applicant;

applicant, has held for at least the 3 months immediately before the date of the application;

- (b) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A409 Other requirements

The applicant must give evidence:

- (a) that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent); and
- (b) that:
 - (i) he or she is enrolled in a vocational education and training course; or
 - (ii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and a vocational education and training course; or

- (iii) he or she is enrolled in a course that is a pre-requisite to a vocational education and training course and has an offer of a place in a vocational education and training course.

Division 4 Requirements for assessment level 2

5A410 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A411 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or

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- (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;
- the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

Division 5 Requirements for assessment level 1

5A412 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A413 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
- (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

Part 5 Subclass 573 (Higher Education Sector)

Division 1 Requirements for assessment level 5

5A501 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A502 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A503 Other requirements

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A504 English language proficiency

- (1) The applicant must give evidence that one of the following applies:
 - (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and

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- (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;
- (aa) the applicant:
 - (i) has achieved, in an IELTS test that was taken less than 2 years before the time of making the application, an Overall Band Score of at least 5.5 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken before commencing the applicant's principal course;
 - (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;
 - (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
 - (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and

- (B) in English; or
- (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and

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- (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.
 - (2) For subclause (1), an applicant is not required to give evidence of English language proficiency if:
 - (a) the application was made outside Australia; and
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
 - (ii) will not undertake any other course before commencing the gazetted course.

5A505 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and

(c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

(1A) If the applicant is:

(a) fully funded; or

(b) an applicant:

(i) who is not funded, wholly or partly, by:

(A) the Commonwealth Government, or the government of a State or Territory; or

(B) the government of a foreign country; or

(C) a multilateral agency; and

(ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and

(iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or

(c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:

(i) a provincial or state government in a foreign country, with the written support of the government of that country; or

(ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

acceptable individual means one or more of the following:

(a) the applicant;

(b) the applicant's spouse or de facto partner;

(c) the applicant's parents;

-
- (d) the applicant's grandparents;
 - (e) the applicant's brothers and sisters;
 - (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and

- (ii) has applied for the visa in order to complete the course; and
- (iii) does not propose to undertake any further course; a money deposit held by an acceptable individual;
- (aa) if paragraph (a) does not apply — a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A506 Other requirements

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); or

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- (b) he or she:
- (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed in Australia a foundation course; or
- (c) he or she:
- (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken in Australia before commencing the applicant's principal course; or
- (d) he or she:
- (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; or
- (e) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in Australia; or
- (f) he or she has a certificate of enrolment in a course that:
- (i) leads to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; and
 - (ii) is to be undertaken in Australia before commencing the applicant's principal course; or
- (g) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that:
- (i) is specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) was conducted outside Australia.

Division 3 Requirements for assessment level 3

5A507 English language proficiency

- (1) The applicant must give evidence that one of the following applies:
 - (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;
 - (aa) the applicant has:
 - (i) achieved, in an IELTS test that was taken less than 2 years before the time of making the application, an Overall Band Score of at least 5.5 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102; and
 - (ii) enrolled in a foundation course before commencing the applicant's principal course;
 - (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0 or the required score in an English language proficiency test that is specified in a Gazette Notice for clause 5A102;
 - (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and

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- (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
 - (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or

- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
 - (e) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.
- (2) For subclause (1), an applicant is not required to give evidence of English language proficiency if:
- (a) the application was made outside Australia; and
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
 - (ii) will not undertake any other course before commencing the gazetted course.

5A508 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;

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- (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or

- (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause:

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:

- (i) is awarded on the basis of merit and an open selection process; and
- (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
- (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or

- (b) a waiver of the applicant's course fees carried out in the following circumstances:

- (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
- (ii) the applicant proposes to study full-time;
- (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:

- (i) has successfully completed at least 75% of the requirements for his or her principal course; and

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- (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course; a money deposit held by the applicant or an individual who is providing support to the applicant;
 - (b) if paragraph (a) does not apply — a money deposit that the applicant, or an individual who is providing support to the applicant, has held for at least the 3 months immediately before the date of the application;
 - (c) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
 - (d) a loan from the government of the applicant's home country;
 - (e) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A509 Other requirements

The applicant must give evidence that:

- (a) he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); or

- (b) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed in Australia a foundation course; or
- (c) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has a certificate of enrolment in a foundation course that is to be undertaken in Australia before commencing the applicant's principal course; or
- (d) he or she:
 - (i) has successfully completed secondary schooling to the year 11 level (or its equivalent); and
 - (ii) has successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; or
- (e) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that was conducted in Australia; or
- (f) he or she has a certificate of enrolment in a course that:
 - (i) leads to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; and
 - (ii) is to be undertaken in Australia before commencing the applicant's principal course; or
- (g) he or she has successfully completed a qualification from the Australian Qualifications Framework at the Certificate IV level or higher in a course that:
 - (i) is specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) was conducted outside Australia.

Division 4 Requirements for assessment level 2

5A510 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A511 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A512 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by his or her proposed education provider.

Division 5 Requirements for assessment level 1

5A513 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A514 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
- (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

5A515 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by the applicant's proposed education provider.

Part 6 Subclass 574 (Postgraduate Research Sector)

Division 1 Requirements for assessment level 5

5A601 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A602 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A603 Other requirements

The applicant must give evidence that:

- (a) he or she has completed an undergraduate degree or its equivalent; and
- (b) the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or

- (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A604 English language proficiency

- (1) An applicant is not required to provide evidence of English language proficiency if the application was made outside Australia, and:
 - (a) the applicant provides evidence that he or she has successfully completed a course, or a course that is included in a class of courses, specified in a Gazette Notice for this paragraph; or
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
 - (ii) will not undertake any other course before commencing the gazetted course.
- (2) If subclause (1) does not apply, the applicant must give evidence that one of the following applies:
 - (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;
 - (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;

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- (c) the applicant:
- (i) is fully funded or holds an International Postgraduate Research Scholarship funded by the Commonwealth Government; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:
- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and

- (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A605 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
 - (i) course fees;
 - (ii) living costs;

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- (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
 - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant:
- (a) is fully funded; or
 - (b) is an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) is the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph; or

- (d) holds an International Postgraduate Research Scholarship funded by the Commonwealth Government;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and

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- (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) if the applicant:
 - (i) has successfully completed at least 75% of the requirements for his or her principal course; and
 - (ii) has applied for the visa in order to complete the course; and
 - (iii) does not propose to undertake any further course; a money deposit held by an acceptable individual;
- (aa) if paragraph (a) does not apply — a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or

- (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (viii) an acceptable non-profit organisation.

5A606 Other requirements

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

Division 3 Requirements for assessment level 3

5A607 English language proficiency

- (1) An applicant is not required to provide evidence of English language proficiency if the application was made outside Australia, and:
 - (a) the applicant provides evidence that he or she has successfully completed a course, or a course that is included in a class of courses, specified in a Gazette Notice for this paragraph; or
 - (b) the applicant:
 - (i) provides a certificate of enrolment in a course that has been gazetted for subregulation 1.44 (2) (the *gazetted course*); and
 - (ii) will not undertake any other course before commencing the gazetted course.
- (2) If subclause (1) does not apply, the applicant must give evidence that one of the following applies:
 - (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 6.0;
 - (b) the applicant:
 - (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and

-
- (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
 - (c) the applicant:
 - (i) is fully funded or holds an International Postgraduate Research Scholarship funded by the Commonwealth Government; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course — will undertake an ELICOS of no more than 30 weeks duration;
 - (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and

- (B) was conducted outside Australia; and
- (C) was conducted in English; and
- (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A608 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:

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- (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of his or her expected stay in Australia; and
 - (d) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant:
- (a) is fully funded; or
 - (b) is an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) is the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or

- (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
- (d) holds an International Postgraduate Research Scholarship funded by the Commonwealth Government;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

(2) In this clause:

financial support, from an applicant's proposed education provider, means:

(a) a scholarship that:

- (i) is awarded on the basis of merit and an open selection process; and
- (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
- (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or

(b) a waiver of the applicant's course fees carried out in the following circumstances:

- (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
- (ii) the applicant proposes to study full-time;
- (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) a money deposit held by the applicant or by an individual who is providing support to the applicant;
- (b) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A609 Other requirements

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

Division 4 Requirements for assessment level 2

5A610 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A611 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant:
 - (a) is fully funded; or
 - (b) is the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph; or
 - (c) holds an International Postgraduate Research Scholarship funded by the Commonwealth Government;
the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

5A612 Other requirements

The applicant must give evidence that he or she has completed an undergraduate degree or its equivalent.

Division 5 Requirements for assessment level 1

5A613 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A614 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) travel costs.

5A615 Other requirements

The applicant must give evidence that he or she has the educational qualifications required by the applicant's proposed education provider.

Part 7 Subclass 575 (Non-Award Sector)

Division 1 Requirements for assessment level 5

5A701 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A702 Financial capacity

The applicant must give evidence that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A703 Other requirements

The applicant must give:

- (a) evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent); and
- (b) (despite paragraph 5A108 (a)) a certificate of enrolment in the principal course; and
- (c) evidence that the applicant's principal course will assist the applicant, in the applicant's home country:
 - (i) to obtain employment; or
 - (ii) to improve his or her prospects of promotion or of obtaining other employment; or
 - (iii) to perform the functions of his or her current position.

Division 2 Requirements for assessment level 4

5A704 English language proficiency

The applicant must give evidence that one of the following applies:

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- (a) the applicant:
 - (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
 - (b) the applicant:
 - (i) will undertake an ELICOS of no more than 20 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.0;
 - (c) the applicant:
 - (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course— will undertake an ELICOS of no more than 20 weeks duration;
 - (d) the applicant had, less than 2 years before the date of the application:
 - (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or

- (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
- (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
- (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;
- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;

- (D) South Africa;
- (E) the Republic of Ireland;
- (F) the United Kingdom;
- (G) the United States of America.

5A705 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.
- (1A) If the applicant is:
 - (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and

- (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
- (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause:

acceptable individual means one or more of the following:

- (a) the applicant;
- (b) the applicant's spouse or de facto partner;
- (c) the applicant's parents;
- (d) the applicant's grandparents;
- (e) the applicant's brothers and sisters;
- (f) an uncle or aunt of the applicant who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

financial support, from an applicant's proposed education provider, means:

- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and

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- (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
 - (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a multilateral agency; or
 - (v) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vi) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (vii) an acceptable non-profit organisation;
- (c) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;

- (d) a loan from the government of the applicant's home country.

5A706 Other requirements

The applicant must give evidence that he or she has successfully completed secondary schooling to the year 12 level (or its equivalent).

Division 3 Requirements for assessment level 3

5A707 English language proficiency

The applicant must give evidence that one of the following applies:

- (a) the applicant:
- (i) will not undertake an ELICOS before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 5.5;
- (b) the applicant:
- (i) will undertake an ELICOS of no more than 30 weeks duration before commencing his or her principal course; and
 - (ii) achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 4.5;
- (c) the applicant:
- (i) is fully funded; and
 - (ii) has a level of English language proficiency that satisfies his or her proposed education provider; and
 - (iii) if the applicant is to undertake an ELICOS before commencing his or her principal course— will undertake an ELICOS of no more than 30 weeks duration;
- (d) the applicant had, less than 2 years before the date of the application:

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- (i) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (ii) successfully completed the requirements for a Senior Secondary Certificate of Education, in a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; or
 - (iii) as the holder of a student visa — successfully completed a substantial part of a course (other than a foundation course) that:
 - (A) was conducted in English; and
 - (B) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (iv) successfully completed a substantial part of a course that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English; and
 - (D) was leading to a qualification from the Australian Qualifications Framework at the Certificate IV level or higher; or
 - (v) successfully completed a foundation course that was conducted:
 - (A) in Australia; and
 - (B) in English; or
 - (vi) successfully completed a course in foundation studies that:
 - (A) is specified by the Minister in an instrument in writing for this sub-subparagraph; and
 - (B) was conducted outside Australia; and
 - (C) was conducted in English;

- (e) the applicant achieved, less than 2 years before the date of the application, the required score in a test that is specified in a Gazette Notice under clause 5A102;
- (f) the applicant has:
 - (i) a level of English language proficiency that satisfies the applicant's proposed education provider; and
 - (ii) at least 5 years of study in English undertaken in 1 or more of the following countries:
 - (A) Australia;
 - (B) Canada;
 - (C) New Zealand;
 - (D) South Africa;
 - (E) the Republic of Ireland;
 - (F) the United Kingdom;
 - (G) the United States of America.

5A708 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (aa) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual.

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- (1A) If the applicant is:
- (a) fully funded; or
 - (b) an applicant:
 - (i) who is not funded, wholly or partly, by:
 - (A) the Commonwealth Government, or the government of a State or Territory; or
 - (B) the government of a foreign country; or
 - (C) a multilateral agency; and
 - (ii) who proposes to undertake a course of study that is, or courses of study that are together, of a duration of less than 12 months; and
 - (iii) for whom, if applying in Australia, the proposed period of stay will result in the applicant's total period of lawful stay in Australia being less than 12 months; or
 - (c) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;

the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.

- (2) In this clause:
- financial support***, from an applicant's proposed education provider, means:
- (a) a scholarship that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and

- (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
- (b) a waiver of the applicant's course fees carried out in the following circumstances:
 - (i) the applicant is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the applicant proposes to study full-time;
 - (iii) the applicant's proposed studies will be credited to a course undertaken by the applicant in the applicant's home country.

funds from an acceptable source means one or more of the following:

- (a) a money deposit that the applicant, or an individual who is providing support to the applicant, has held for at least the 3 months immediately before the date of the application;
- (b) a loan from a financial institution made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (c) a loan from the government of the applicant's home country;
- (d) financial support from:
 - (i) the applicant's proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and

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- (B) employs the applicant in a role in relation to which the applicant's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5A709 Other requirements

The applicant must give evidence that he or she has successfully completed secondary schooling to the year 11 level (or its equivalent).

Division 4 Requirements for assessment level 2

5A710 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A711 Financial capacity

- (1) The applicant must give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and

- (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (1A) If the applicant is:
- (a) fully funded; or
 - (b) the subject of an arrangement by which the course fees, living costs and travel costs for the primary person's full period, assessed for the primary person alone, will be met by:
 - (i) a provincial or state government in a foreign country, with the written support of the government of that country; or
 - (ii) an organisation specified by the Minister in a Gazette Notice for this paragraph;
- the applicant must give evidence that the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (2) In this clause, *funds from an acceptable source* does not include the value of an item of property.

Division 5 Requirements for assessment level 1

5A712 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider.

5A713 Financial capacity

The applicant must give a declaration stating that the applicant has access to funds that are sufficient to meet:

- (a) the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;

- (iii) school costs; and
- (b) travel costs.

Part 8 Subclass 576 (AusAID or Defence Sector)

Division 1 Requirements for assessment level 5

5A801 English language proficiency

The applicant must give evidence that the applicant achieved, in an IELTS test that was taken less than 2 years before the date of the application, an Overall Band Score of at least 7.0.

5A802 Financial capacity

The applicant must give evidence, in accordance with this clause, that:

- (a) the applicant has funds that are sufficient to meet the following expenses for the full period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
- (b) the applicant has funds that are sufficient to meet travel costs; and
- (c) the funds have been held by the applicant in money deposits for at least the 5 years immediately before the date of the application (the *accumulation day*); and
- (d) the applicant's income before the accumulation day was sufficient to accumulate the funds.

5A803 Other requirements

The applicant must give evidence:

- (a) that he or she is:
 - (i) a person who has the support of the AusAID Minister; or
 - (ii) a person who has the support of the Defence Minister; and

- (b) of the expected duration of the applicant's study or training in Australia.

Division 2 Requirements for assessment level 2

5A804 English language proficiency

The applicant must give evidence that he or she has a level of English language proficiency that satisfies his or her proposed education provider or training organisation.

5A805 Financial capacity

- (1) Subject to subclause (2), if the applicant has the support of the AusAID Minister or the Defence Minister, the applicant must give evidence of that fact.
- (2) If required to do so in writing by the Minister, the applicant must also give, in accordance with this clause:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration by the applicant stating that he or she has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months; and
 - (d) the applicant has access to funds that are sufficient to support each member of the applicant's family unit who is not a family applicant.
- (3) In this clause, *funds from an acceptable source* means one or more of the following:

- (a) a money deposit or the value of an item of property held by the applicant or by a person who is providing support to the applicant;
- (b) a loan from a financial institution;
- (c) a loan from the government of the applicant's home country;
- (d) financial support (such as a scholarship) from:
 - (i) the government of a foreign country; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) a business; or
 - (iv) a multilateral agency;
- (e) support from the AusAID Minister or the Defence Minister.

5A806 Other requirements

The applicant must give evidence:

- (a) that he or she is:
 - (i) a person who has the support of the AusAID Minister; or
 - (ii) a person who has the support of the Defence Minister; and
- (b) of the expected duration of the applicant's study or training in Australia.

Schedule 5B Evidentiary requirements for student visas — secondary applicants

(Schedule 2, clauses 570.332, 571.332, 572.332, 573.332, 574.332, 575.332 and 576.333)

Part 1 Preliminary

5B101 Definitions

In this Schedule:

acceptable non-profit organisation means an organisation that:

- (a) operates on a non-profit basis; and
- (b) is actively and lawfully operating in Australia or overseas; and
- (c) has funds that are, or an income that is, sufficient to provide the financial support it proposes to provide.

course fees, for an applicant in relation to a period, means the fees for each course proposed to be undertaken by the primary person in the period, as indicated by the proposed education provider in a letter or other document.

family applicant means a member of the primary person's family unit who is a visa applicant seeking to satisfy secondary criteria in relation to the primary person.

financial institution means a body corporate that, as part of its normal activities:

- (a) takes money on deposit and makes advances of money; and
- (b) does so under a regulatory regime, governed by the central bank (or its equivalent) of the country in which it operates, that the Minister is satisfied provides effective prudential assurance.

financial support, from the education provider or proposed education provider of a primary person who is the holder of a Subclass 570, 572, 573, 574 or 575 visa, means:

-
- (a) a scholarship awarded to the primary person that:
 - (i) is awarded on the basis of merit and an open selection process; and
 - (ii) is awarded to the primary person as a student who is enrolled in a course leading to a Certificate IV qualification or a higher qualification; and
 - (iii) is awarded to the greater of:
 - (A) not more than 10% of overseas students in a course intake; and
 - (B) not more than 3 overseas students in a course intake; or
 - (b) a waiver of the primary person's course fees carried out in the following circumstances:
 - (i) the primary person is part of an exchange program that involves:
 - (A) a formal agreement between an education provider and an education institution in a foreign country; and
 - (B) the reciprocal waiver of course fees as part of that agreement;
 - (ii) the primary person is studying, or proposes to study, full-time;
 - (iii) the primary person's proposed studies will be credited to a course undertaken by the primary person in the primary person's home country.

first 12 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 12 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 24 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 24 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

first 36 months, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 36 months after the beginning of the period;
 - (ii) the last day of the applicant's proposed stay in Australia.

initial period, for an applicant, means the period that:

- (a) begins:
 - (i) if the application is made outside Australia — on the day of the applicant's expected arrival in Australia; or
 - (ii) if the application is made in Australia — on the day that the student visa is expected to be granted to the applicant; and
- (b) ends on the earlier of the following:
 - (i) the day 12 months after the expected commencement date of the primary person's principal course;

- (ii) the last day of the applicant's proposed stay in Australia.

living costs has the meaning given by subclause 5B102 (1).

money deposit means a money deposit with a financial institution.

primary person means the holder of a student visa that was granted on the basis of the holder meeting the primary criteria for the student visa.

school costs has the meaning given by subclause 5B102 (2).

travel costs, for an applicant, means the sum of costs for each of the applicant, any family applicant, the primary person and any member of the primary person's family unit who is the holder of a student visa:

- (a) if the applicant, family applicant, primary person or member of the primary person's family unit is not in Australia when the application is made — of travelling to Australia; and
- (b) of returning to that person's home country at the end of his or her stay.

Note *foreign country* is defined in paragraph 22 (1) (f) of the *Acts Interpretation Act 1901* as any country (whether or not an independent sovereign state) outside Australia and the external Territories.

5B102 Meaning of living costs and school costs

- (1) An applicant's *living costs* for a period are taken to accrue at the sum of the following rates:
 - (a) for the primary person — \$12 000 per year (the *basic rate*);
 - (b) if the primary person has a spouse or de facto partner who is a family applicant or the holder of a student visa — 35% of the basic rate;
 - (c) if the primary person has a dependent child who is a family applicant or the holder of a student visa — 20% of the basic rate;
 - (d) if the primary person has any further dependent child who is a family applicant or the holder of a student visa — 15% of the basic rate for each such child.

- (2) An applicant's *school costs* are taken to accrue at the sum of the following rates:
 - (a) if the applicant is a school-age dependant — \$8 000 per year;
 - (b) for each child who is:
 - (i) a school-age dependant at the time; and
 - (ii) a family applicant or the holder of a student visa; \$8 000 per year.

5B103 Declarations

In this Schedule, a requirement that an applicant give a declaration of a matter is taken, for a person who is less than 18 years old, to be a requirement that:

- (a) a parent of the applicant; or
 - (b) a person having custody of the applicant;
- give the declaration on the applicant's behalf.

Part 2 Evidentiary requirements for assessment level 4

5B201 Requirements for assessment level 4 (Subclass 570, 571, 572, 573 or 575 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 570, 571, 572, 573 or 575 visa; and
 - (b) was subject to assessment level 4 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 36 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

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- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (d) a declaration stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 36 months.

(3) In this clause:

acceptable individual means one or more of the following:

- (a) the primary person;
- (b) the primary person's spouse or de facto partner;
- (c) the primary person's parents;
- (d) the primary person's grandparents;
- (e) the primary person's brothers and sisters;
- (f) an uncle or aunt of the primary person who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

funds from an acceptable source means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the primary person's home country;
- (d) financial support from:
 - (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or

- (iii) the government of a foreign country; or
- (iv) unless the primary person holds a Subclass 570 (Independent ELICOS Sector) visa — a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the primary person in a role in relation to which the primary person's principal course is of direct relevance; or
- (v) a multilateral agency; or
- (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
- (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (viii) an acceptable non-profit organisation.

5B202 Requirements for assessment level 4 (Subclass 574 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 574 visa; and
 - (b) was subject to assessment level 4 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and

(d) a declaration stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the initial period.

(3) In this clause:

acceptable individual means one or more of the following:

- (a) the primary person;
- (b) the primary person's spouse or de facto partner;
- (c) the primary person's parents;
- (d) the primary person's grandparents;
- (e) the primary person's brothers and sisters;
- (f) an uncle or aunt of the primary person who is:
 - (i) an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
 - (ii) usually resident in Australia.

funds from an acceptable source means one or more of the following:

- (a) a money deposit that an acceptable individual has held for at least the 6 months immediately before the date of the application;
- (b) a loan from a financial institution that is made to, and held in the name of, an acceptable individual;
- (c) a loan from the government of the primary person's home country;
- (d) financial support from:
 - (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and

- (B) employs the primary person in a role in relation to which the primary person's principal course is of direct relevance; or
- (v) a multilateral agency; or
- (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
- (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
- (viii) an acceptable non-profit organisation.

Part 3 Evidentiary requirements for assessment level 3

5B301 Requirements for assessment level 3 (Subclass 570, 571, 572, 573 or 575 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 570, 571, 572, 573 or 575 visa; and
 - (b) was subject to assessment level 3 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 24 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and

(d) a declaration stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 24 months.

(3) In this clause:

funds from an acceptable source means one or more of the following:

- (a) a money deposit that the applicant, or an individual who is providing support to the applicant, has held for at least the 3 months immediately before the date of the application;
- (b) a loan from a financial institution that is made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
- (c) a loan from the government of the primary person's home country;
- (d) financial support from:
 - (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the primary person in a role in relation to which the primary person's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

5B302 Requirements for assessment level 3 (Subclass 574 visa)

- (1) This clause applies if a primary person:
 - (a) is the holder of a Subclass 574 visa; and
 - (b) was subject to assessment level 3 at the time of the decision to grant the visa.

- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the initial period:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and
 - (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) evidence that the regular income of any individual (including the applicant) providing funds to the applicant was sufficient to accumulate the level of funding being provided by that individual; and
 - (d) a declaration stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the initial period.

- (3) In this clause:

*fun****ds from an acceptable source*** means one or more of the following:

 - (a) a money deposit held by the applicant, or an individual who is providing support to the applicant;
 - (b) a loan from a financial institution that is made to, and held in the name of, the applicant or an individual who is providing support to the applicant;
 - (c) a loan from the government of the primary person's home country;

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- (d) financial support from:
- (i) the primary person's education provider or proposed education provider; or
 - (ii) the Commonwealth Government, or the government of a State or Territory; or
 - (iii) the government of a foreign country; or
 - (iv) a corporation that:
 - (A) conducts commercial activities outside the country in which it is based; and
 - (B) employs the primary person in a role in relation to which the primary person's principal course is of direct relevance; or
 - (v) a multilateral agency; or
 - (vi) a provincial or state government in a foreign country, provided with the written support of the government of that country; or
 - (vii) an organisation specified by the Minister in an instrument in writing for this subparagraph; or
 - (viii) an acceptable non-profit organisation.

Part 4 Evidentiary requirements for assessment level 2

5B401 Requirements for assessment level 2

- (1) This clause applies if a primary person:
 - (a) is the holder of a student visa; and
 - (b) was subject to assessment level 2 at the time of the decision to grant the visa.
- (2) The applicant must give:
 - (a) evidence that the applicant has funds from an acceptable source that are sufficient to meet the following expenses for the first 12 months:
 - (i) course fees;
 - (ii) living costs;
 - (iii) school costs; and

- (b) evidence that the applicant has funds from an acceptable source that are sufficient to meet travel costs; and
 - (c) a declaration stating that the applicant has access to funds from an acceptable source that are sufficient to meet course fees, living costs and school costs for the remainder of the applicant's proposed stay in Australia after the first 12 months.
- (3) In this clause, *funds from an acceptable source* does not include the value of an item of property.

Schedule 6 **General points test — qualifications and points**

(regulations 2.26 and 2.27)

Part 1 **Employment qualification**

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6101	<p>The applicant:</p> <ul style="list-style-type: none">(a) applies to enter Australia on the basis of an occupation:<ul style="list-style-type: none">(i) that is the applicant's usual occupation; and(ii) that is a priority occupation; and(iii) for which, in Australia, a degree, trade certificate, diploma, associate diploma or post-trade qualification is required or that is a professional-equivalent or technical-equivalent occupation; and(iv) in respect of which, at least 3 years before the relevant application was made, the applicant:<ul style="list-style-type: none">(A) obtained a degree, trade certificate, diploma, associate diploma or post-trade qualification assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or(B) completed work experience assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or	80

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6102	<p>(C) completed a combination of academic or professional study or trade training and work experience that together are assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; and</p> <p>(b) has in respect of that occupation, qualifications or experience (or both) required for the purpose of any Australian occupational licence or registration (or both); and</p> <p>(c) was employed in that occupation on the day that is 3 years before the day on which the relevant application was made; and</p> <p>(d) has worked in that occupation or in a closely related occupation for a period of 2 years, or periods that total 2 years, in the period of 3 years ending on the day before the day on which the relevant application was made</p> <p>The applicant's usual occupation:</p> <p>(a) is not a priority occupation; and</p> <p>(b) is an occupation:</p> <p>(i) for which, in Australia, a degree or trade certificate is required; or</p> <p>(ii) that is a professional-equivalent occupation; and</p> <p>(c) is an occupation in respect of which, at least 3 years before the relevant application was made, the applicant:</p> <p>(i) obtained a degree, trade certificate, diploma, associate diploma or post-trade qualification assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or</p>	70

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (ii) completed work experience assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or (iii) completed a combination of academic or professional study or trade training and work experience that together are assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; and (d) is an occupation in respect of which the applicant has qualifications or experience (or both) required for the purpose of holding any Australian occupational licence or registration (or both); and (e) is an occupation in which the applicant was employed on the day that is 3 years before the day on which the relevant application was made; and (f) is an occupation: <ul style="list-style-type: none"> (i) in which the applicant has worked; or (ii) is closely related to an occupation in which the applicant has worked; for a period of 2 years, or periods that total 2 years, in the period of 3 years ending on the day before the day on which the relevant application was made 	
6103	<p>The applicant would meet the qualification specified in item 6102 except that:</p> <ul style="list-style-type: none"> (a) the applicant did not obtain or complete the qualification referred to in paragraph (c) of that item at least 3 years before the application was made; or (b) the applicant was not employed in the occupation on the day that is 3 years before the application was made; or 	60

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6104	<p>(c) the applicant had not worked in the occupation or a closely related occupation for a period of 2 years, or periods totalling 2 years, in the period of 3 years ending on the day before the application was made</p> <p>The applicant's usual occupation:</p> <p>(a) is not a priority occupation; and</p> <p>(b) is an occupation:</p> <p>(i) for which, in Australia, a diploma or associate diploma is required; or</p> <p>(ii) that is a technical-equivalent occupation; and</p> <p>(c) is an occupation in respect of which, at least 3 years before the relevant application was made, the applicant:</p> <p>(i) obtained a diploma or associate diploma assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or</p> <p>(ii) completed work experience assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; or</p> <p>(iii) completed a combination of academic or professional study or trade training and work experience that together are assessed by the relevant Australian authority to be equivalent to the Australian standards for the occupation; and</p> <p>(d) is an occupation in respect of which the applicant has qualifications or experience (or both) required for the purpose of holding any Australian occupational licence or registration (or both); and</p> <p>(e) is an occupation in which the applicant was employed on the day that is 3 years before the day on which the relevant application was made; and</p>	55

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	<p>(f) is an occupation:</p> <p>(i) in which the applicant has worked; or</p> <p>(ii) is closely related to an occupation in which the applicant has worked; for a period of 2 years, or periods that total 2 years, in the period of 3 years ending on the day before the day on which the relevant application was made</p>	
6105	<p>The applicant would meet the qualification specified in item 6104 except that:</p> <p>(a) the applicant did not obtain or complete the qualification referred to in paragraph (c) of that item at least 3 years before the application was made; or</p> <p>(b) the applicant was not employed in the occupation on the day that is 3 years before the application was made; or</p> <p>(c) the applicant had not worked in the occupation or a closely related occupation for a period of 2 years, or periods totalling 2 years, in the period of 3 years ending on the day before the application was made</p>	50
6106	<p>The applicant:</p> <p>(a) applies to enter Australia on the basis of an occupation which is the applicant's usual occupation, being an occupation:</p> <p>(i) for which, in Australia, a degree, diploma, associate diploma or trade certificate is required; and</p> <p>(ii) in respect of which the applicant has a degree, diploma, associate diploma or trade certificate that qualifies the applicant to enter that occupation in the foreign country that is the applicant's usual country of residence; and</p>	30

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6107	<p>(iii) in respect of which the qualifications of the applicant are assessed by the relevant Australian authority as requiring upgrading by a course of training lasting not more than 6 months before being equivalent to Australian standards for that occupation; and</p> <p>(b) has, in relation to such an occupation, the attributes referred to in paragraph 6101 (c)</p> <p>The applicant:</p> <p>(a) applies to enter Australia:</p> <p>(i) on the basis of an occupation that is the applicant's usual occupation, being an occupation entry to which in Australia requires a certificate or advanced certificate; and</p> <p>(ii) as a person who has educational qualifications equivalent to completion of 4, 5 or 6 years of secondary education in Australia; and</p> <p>(iii) as a person who has a certificate or advanced certificate that meets Australian standards for that occupation, or has work experience that is assessed by the relevant Australian authority to be equivalent to a post-secondary qualification of that kind; or</p> <p>(b) has an occupation:</p> <p>(i) that is the applicant's usual occupation; and</p> <p>(ii) entry to which in Australia requires a degree, diploma, associate diploma or trade certificate; and</p>	25

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	(iii) in respect of which the applicant has a degree, diploma, associate diploma or trade certificate, or possesses work experience, assessed by the relevant Australian authority as not equivalent to Australian Standards for that occupation	
6108	The applicant has: (a) an occupation that is the applicant's usual occupation; and (b) has educational qualifications equivalent to 12 years of primary and secondary education in Australia	20
6109	The applicant has: (a) an occupation that is the applicant's usual occupation; and (b) educational qualifications equivalent to 10 years of primary and secondary education in Australia	10
<p><i>Note</i> If the applicant's usual occupation is that of medical practitioner (including specialist medical practitioner), 25 points are to be deducted: see paragraph 2.26 (3) (c).</p>		

Part 2 Age qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6201	The applicant is aged not less than 18 years and under 30 years at time of application	30
6202	The applicant is aged not less than 30 years and under 35 years at time of application	25
6203	The applicant is aged not less than 35 years and under 40 years at time of application	20
6204	The applicant is aged not less than 40 years and under 45 years at the time of application	15

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6205	The applicant is aged not less than 45 years and under 50 years at the time of application	5

Part 3 Language skill qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6302	The applicant provides evidence of having passed the Occupational English Test: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	20
6303	The applicant provides evidence of having achieved an ACCESS test score of at least 5 on each of the 4 test components of listening, reading, writing and oral interaction in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	20
6304	The applicant provides evidence of having achieved an IELTS test score of at least 6.0 on each of the 4 test components of speaking, reading, writing and listening in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	20
6306	The applicant provides evidence of having achieved an ACCESS test score of at least 15 taking into account the 3 best of the applicant's scores based on the 4 test components of listening, reading, writing and oral interaction in a test conducted:	15

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	
6307	<p>The applicant provides evidence of having achieved an IELTS average band score of at least 6.0 on the 3 best of the applicant's scores based on the 4 test components of speaking, reading, writing and listening in a test conducted:</p> <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	15
6308	<p>The applicant provides evidence of having completed all years of primary education and at least 3 years of secondary education at educational institutions in which all instruction was conducted in English</p>	10
6309	<p>The applicant provides evidence of having completed at least 5 years of secondary education at educational institutions in which all instruction was conducted in English</p>	10
6310	<p>The applicant provides evidence of having achieved an ACCESS test score of at least 15 with a minimum of 3 for each of the 4 test components of listening, reading, writing and oral interaction in a test conducted:</p> <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	10

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6311	The applicant provides evidence of having achieved an IELTS average band score of at least 4.5 based on the 4 test components of speaking, reading, writing and listening in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	10
6311A	The applicant provides evidence that he or she has successfully completed, in Australia, at least 1 year of full-time study or equivalent part-time study towards a degree, higher degree, diploma or associate diploma at an institution or institutions where all the instruction was conducted in English	10
6312	The applicant provides evidence of having completed all years of primary education and at least 2 years of secondary education at educational institutions in which all instruction was conducted in English	5
6313	The applicant provides evidence of having completed at least 3 years of secondary education at educational institutions in which all instruction was conducted in English	5
6314	The applicant provides evidence of having achieved an ACCESS test score of at least 12 based on the 4 test components of listening, reading, writing and oral interaction in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate 	5
6315	The applicant provides evidence of having achieved an IELTS average band score of at least 4.0 based on the 4 test components of speaking, reading, writing and listening in a test conducted:	5

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	(a) not more than 12 months before lodging the relevant application to migrate; or (b) at the time of the processing of the relevant application to migrate	
6316	The applicant satisfies the Minister that the applicant is fluent in 2 languages other than English	5
<p><i>Note</i> In the determination of the points score of an applicant for a Subclass 105 (Skilled — Australian Linked) or Subclass 126 (Independent) visa, 5 points must be added if the applicant holds an award (being an Australian degree, higher degree, diploma or trade certificate) obtained after a period of at least 1 year of full-time study in Australia for that award: see paragraph 2.26 (3) (d).</p>		

Part 4 Relationship qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6401	The sponsor is a son or daughter or a stepson or stepdaughter of the applicant	15
6402	The sponsor is a brother or sister, an adoptive brother or sister, a stepbrother or stepsister, or a parent of the applicant	10
6403	The sponsor is an aunt or uncle, an adoptive aunt or uncle or a step-aunt or step-uncle of the applicant	5

Part 5 Citizenship qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6501	The sponsor has been an Australian citizen for not less than 5 years at the time Immigration receives the relevant sponsorship	10

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6502	The sponsor has been an Australian citizen for less than 5 years at the time Immigration receives the relevant sponsorship	5

Part 6 Settlement of sponsor qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6601	<p>The sponsor:</p> <ul style="list-style-type: none">(a) has been resident in Australia (except for short absences for the purposes of recreation or business) throughout the period of 2 years immediately before Immigration receives the relevant sponsorship; and(b) is not, at the time Immigration receives the relevant sponsorship, receiving a benefit under the <i>Student and Youth Assistance Act 1973</i> or any form of Australian social security benefit, allowance or pension, other than:<ul style="list-style-type: none">(i) an age pension under the <i>Social Security Act 1991</i>; or(ii) a family allowance, or family allowance supplement, under that Act; or(iii) a pension under the <i>Seamen's War Pensions and Allowances Act 1940</i> or the <i>Veterans' Entitlements Act 1986</i>; and(c) is either:<ul style="list-style-type: none">(i) a person who:<ul style="list-style-type: none">(A) is financially independent, engaged in paid employment or receiving a pension referred to in subparagraph (b) (i) or (iii); and	10

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
	<p>(B) has not received, in respect of a period or periods amounting to more than 4 weeks during that period of 2 years, a job search allowance, a newstart allowance or a special benefit under the <i>Social Security Act 1991</i>; or</p> <p>(ii) a person who:</p> <p>(A) is not financially independent, engaged in paid employment or receiving a pension referred to in subparagraph (b) (i) or (iii); and</p> <p>(B) does not have a spouse or de facto partner who has received, in respect of a period or periods amounting to more than 4 weeks during that period of 2 years, a job search allowance, a newstart allowance or a special benefit under the <i>Social Security Act 1991</i>.</p>	

Part 7 Location of sponsor qualification

Column 1 Item	Column 2 Prescribed qualification	Column 3 Number of points
6701	Throughout the period of 2 years immediately before Immigration receives the relevant sponsorship (except for short absences for the purposes of recreation or business), the sponsor has been resident in one or more of the areas specified by an instrument in writing for this item as designated areas for the purpose of this item	5

Schedule 6A General points test — qualifications and points

(regulations 2.26A and 2.27A)

Part 1 Skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A11	The occupation nominated by the applicant in his or her application is specified by an instrument in writing for this item as a skilled occupation for which 60 points are available	60
6A12	The occupation nominated by the applicant in his or her application is specified by an instrument in writing for this item as a skilled occupation for which 50 points are available	50
6A13	The occupation nominated by the applicant in his or her application is specified by an instrument in writing for this item as a skilled occupation for which 40 points are available	40

Part 2 Age qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A21	The applicant is aged not less than 18 years and under 30 years at the time of application	30
6A22	The applicant is aged not less than 30 years and under 35 years at the time of application	25
6A23	The applicant is aged not less than 35 years and under 40 years at the time of application	20
6A24	The applicant is aged not less than 40 years and under 45 years at the time of application	15

Part 3 Language skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A31	The applicant provides evidence of having achieved an IELTS test score of at least 6 for each of the 4 test components of speaking, reading, writing and listening in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before the day on which the application was made; or (b) during processing of the application 	20
6A32	The applicant provides evidence of having passed the Occupational English Test: <ul style="list-style-type: none"> (a) not more than 12 months before the day on which the application was lodged; or (b) during processing of the application 	20
6A33	The applicant provides evidence of having achieved an IELTS test score of at least 5 on each of the 4 test components of speaking, reading, writing and listening in a test conducted: <ul style="list-style-type: none"> (a) not more than 12 months before the day on which the application was made; or (b) during processing of the application 	15

Part 4 Employment experience qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A41	For a period of, or for periods totalling, at least 36 months in the 48 months immediately before the day on which the application was made, the applicant has been employed in the nominated skilled occupation, or a closely related skilled occupation, that is specified by an instrument in writing for this item as a skilled occupation for which 60 points are available	10

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A42	The applicant has been employed in a skilled occupation for a period of, or for periods totalling, at least 36 months in the 48 months immediately before the day on which the application was made	5

Part 5 Spouse or de facto partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A51	<p>The spouse or de facto partner of the applicant:</p> <ul style="list-style-type: none">(a) is, at the time of application, under 45 years of age; and(b) has vocational English; and(c) has nominated a skilled occupation in his or her application; and(d) has been assessed by the relevant assessing authority for a skilled occupation as having suitable skills for that occupation; and(e) unless:<ul style="list-style-type: none">(i) each of the following sub-subparagraphs applies in relation to the spouse or de facto partner:<ul style="list-style-type: none">(A) the spouse or de facto partner has, in the 6 months immediately before the day on which the application is made, met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of at least 2 years at that institution while the spouse or	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>de facto partner was present in Australia;</p> <p>(B) all instruction for that degree, diploma or trade qualification was conducted in English;</p> <p>(C) the degree, diploma or trade qualification mentioned in sub-subparagraphs (A) and (B) is relevant to the skilled occupation nominated by the spouse or de facto partner in his or her application; or</p> <p>(ii) each of the following sub-subparagraphs applies in relation to the spouse or de facto partner:</p> <p>(A) the spouse or de facto partner has, in the 6 months immediately before the day on which the application is made, met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the spouse or de facto partner was present in Australia;</p> <p>(B) before meeting the requirements for award of that degree, diploma or trade qualification, the spouse or de facto partner met the requirements for award of at least 1 other degree, diploma or trade qualification (other than a degree,</p>	

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the spouse or de facto partner was present in Australia;	
(C)	the spouse or de facto partner met the requirements for award of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the spouse or de facto partner was present in Australia;	
(D)	the spouse or de facto partner met the requirements for award of each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) at the institution at which it was commenced;	
(E)	each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) is relevant to the skilled occupation nominated by the spouse or de facto partner in his or her application;	

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>(F) all instruction for each of the degrees, diplomas or trade qualifications mentioned in sub-subparagraphs (A) and (B) was conducted in English;</p> <p>the spouse or de facto partner has, at the time of application, been employed in a skilled occupation for a period of, or for periods totalling, at least:</p> <p>(iii) if 60 points are specified by an instrument in writing for this subparagraph as available for the nominated skilled occupation — 12 months in the 18 months immediately before that day; or</p> <p>(iv) if 40 or 50 points are specified by an instrument in writing for this subparagraph as available for the nominated skilled occupation — 24 months in the 36 months immediately before that day; and</p> <p>(f) is not an Australian permanent resident or an Australian citizen.</p>	

Part 6 Australian educational qualification

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A61	The applicant has met the requirements for award of a doctorate by an Australian educational institution as a result of a course of study of at least 2 years in Australia	15

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A61A	<p>The applicant has, since meeting the requirements for award of an undergraduate degree by an Australian tertiary educational institution as a result of a course of study of at least 1 year, while the applicant was present in Australia, and for which all instruction was conducted in English, met the requirements for award of:</p> <ul style="list-style-type: none"> (a) a masters degree; or (b) an honours degree at or above the level of second class division 1 honours; <p>by an Australian tertiary educational institution as a result of a course of study of at least 1 year, while the applicant was present in Australia, and for which all instruction was conducted in English</p>	10
6A63	<p>Each of the following paragraphs applies to the applicant:</p> <ul style="list-style-type: none"> (a) the applicant has met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) by an Australian educational institution as a result of a course of study of at least 2 years in Australia; (b) all instruction for that degree, diploma or trade qualification was conducted in English 	5
6A64	<p>Each of the following paragraphs applies in relation to the applicant:</p> <ul style="list-style-type: none"> (a) the applicant has met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution as a result of a course of study of less than 2 years at that institution while the applicant was present in Australia; 	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>(b) before meeting the requirements for award of that degree, diploma or trade qualification, the applicant met the requirements for award of a degree at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;</p> <p>(c) the applicant met the requirements for award of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (b) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;</p> <p>(d) all instruction for each of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (b) was conducted in English</p>	

Part 7 Skills targeting qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A71	<p>The applicant:</p> <p>(a) has nominated a migration occupation in demand in his or her application; and</p> <p>(b) has an offer of full-time employment in that occupation, or a closely related skilled occupation, in an organisation that had at least 10 full-time employees at all times in the 24 months immediately before the day on which the application was made</p>	20
6A72	The applicant has nominated a migration occupation in demand in his or her application	15

Part 8 Bonus points qualification

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A81	<p>Application for:</p> <ul style="list-style-type: none"> • Skilled — Australian-sponsored (Migrant) (Class BQ) visa • Skilled — New Zealand Citizen (Residence) (Class DB) visa • Skilled — Independent Overseas Student (Residence) (Class DD) visa • Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa <p>The applicant:</p> <ul style="list-style-type: none"> (a) has deposited at least AUD100 000 in a designated security for a term of not less than 12 months; or (b) has been employed in Australia in a skilled occupation for a period of, or for periods totalling, at least 6 months in the 48 months immediately before the day on which the application was made while holding a visa authorising him or her to work; or (c) is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or (d) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters 	5
6A82	<p>Application for:</p> <ul style="list-style-type: none"> • Skilled — Independent (Migrant) (Class BN) visa • Skilled — Independent Regional (Provisional) (Class UX) visa <p>The applicant:</p>	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>(a) has indicated in the application that the applicant is able and willing to deposit at least AUD100 000 in a designated security for a term of not less than 12 months; or</p> <p>(b) has been employed in Australia in a skilled occupation for a period of, or for periods totalling, at least 6 months in the 48 months immediately before the day on which the application was made while holding a visa authorising him or her to work; or</p> <p>(c) is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or</p> <p>(d) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters</p>	

Part 9 Sponsorship qualification — general

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A91	<p>The applicant is sponsored by a person to whom the applicant, or the applicant's spouse or de facto partner, if the spouse or de facto partner is an applicant for the same subclass of visa, has 1 of the following relationships:</p> <p>(a) parent;</p> <p>(b) brother, sister, adoptive brother, adoptive sister, step-brother or step-sister;</p>	15

Schedule 6A	General points test — qualifications and points
Part 9A	Sponsorship qualification for Skilled — Independent Regional (Provisional) (Class UX) visa

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (c) aunt, uncle, adoptive aunt, adoptive uncle, step-aunt or step-uncle; (d) child or step-child who is not a dependent child of the applicant or the applicant's spouse or de facto partner; (e) niece, nephew, adoptive niece, adoptive nephew, step-niece or step-nephew 	

Part 9A Sponsorship qualification for Skilled — Independent Regional (Provisional) (Class UX) visa

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A9A1	<p>The applicant:</p> <ul style="list-style-type: none"> (a) has applied for a Skilled — Independent Regional (Provisional) (Class UX) visa; and (b) is sponsored by a State or Territory government agency for the purposes of that visa application 	10

Part 10 Additional points for regional Australia and low-population growth metropolitan areas

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A1001	<p>Each of the following paragraphs applies in relation to the applicant:</p> <ul style="list-style-type: none"> (a) the applicant has met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian 	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6A1002	<p>educational institution specified in an instrument in writing for this item as a result of a course of study of at least 2 years at a campus of the institution;</p> <p>(b) the location of the campus is specified in that instrument;</p> <p>(c) the applicant lived in a part of Australia the postcode of which is specified in that instrument while the applicant undertook the course of study;</p> <p>(d) the study undertaken did not constitute distance education</p> <p>Each of the following paragraphs applies in relation to the applicant:</p> <p>(a) the applicant has met the requirements for award of a degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by an Australian educational institution specified in an instrument in writing for this item as a result of a course of study of less than 2 years at a campus of that institution while the applicant was present in Australia;</p> <p>(b) the location of the campus is specified in that instrument;</p> <p>(c) before meeting the requirements for award of that degree, diploma or trade qualification, the applicant met the requirements for award of at least 1 other degree, diploma or trade qualification (other than a degree, diploma or trade qualification in English language proficiency) for award by that institution, or another Australian educational institution, as a result of a course of study, while the applicant was present in Australia;</p>	5

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	(d) the applicant met the requirements for award of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (c) as a result of 1 or more courses of study undertaken over a total of at least 2 years while the applicant was present in Australia;	
	(e) all instruction for each of the degrees, diplomas or trade qualifications mentioned in paragraphs (a) and (c) was conducted in English;	
	(f) the applicant lived in a part of Australia the postcode of which is specified in that instrument while the applicant undertook the 2 years of study;	
	(g) the study undertaken did not constitute distance education	

Part 11 Application of Schedule 6A from 1 July 2003

- 6A1101 Paragraph 6A51 (e), as in force immediately before 1 July 2003, continues to apply in relation to a person:
- (a) who was undertaking full-time study in Australia on or before 31 March 2003; and
 - (b) who applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;

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- (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
 - (c) whose application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003.

Note Item 6A51 was amended with effect from 1 July 2003. The two versions of the item, before and after 1 July 2003, have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new version.

6A1102 If:

- (a) a person was undertaking full-time study in Australia on or before 31 March 2003; and
 - (b) the person applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;
 - (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
 - (c) the person's application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003; and
 - (d) item 6A61, as in force immediately before 1 July 2003, would enable the person to be credited with more points than would be credited under item 6A61, as in force on or after 1 July 2003;
- item 6A61, as in force immediately before 1 July 2003, applies in relation to the person.

Note Item 6A61 was omitted, and a new item 6A61 substituted, with effect from 1 July 2003. The two versions of the item, before and after 1 July 2003, have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new version.

6A1103 If:

- (a) a person was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) the person applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;
 - (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
- (c) the person's application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003; and
- (d) item 6A61, as in force on or after 1 July 2003, would enable the person to be credited with the same points as, or more points than, would be credited under item 6A61, as in force immediately before 1 July 2003;

item 6A61, as in force on or after 1 July 2003, applies in relation to the person.

Note Item 6A61 was omitted, and a new item 6A61 substituted, with effect from 1 July 2003. The two versions of the item, before and after 1 July 2003, have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new version.

6A1104 If:

- (a) a person was undertaking full-time study in Australia on or before 31 March 2003; and
- (b) the person applied for any of the following visas before 1 July 2003, or applies for any of the visas on or after 1 July 2003 and before 1 April 2004:
 - (i) Graduate — Skilled (Temporary) (Class UQ) visa;
 - (ii) Skilled — Independent Overseas Student (Residence) (Class DD) visa;
 - (iii) Skilled — Australian-sponsored Overseas Student (Residence) (Class DE) visa;
 - (iv) Skilled — Independent (Migrant) (Class BN) visa;
 - (v) Skill Matching (Migrant) (Class BR) visa;
 - (vi) Skilled — Australian-sponsored (Migrant) (Class BQ) visa;
 - (vii) Skilled — New Zealand Citizen (Residence) (Class DB) visa; and
- (c) the person's application for that visa has not been finally determined (within the meaning of subsection 5 (9) of the Act) before 1 July 2003;

item 6A62, as in force immediately before 1 July 2003, applies in relation to the person, and items 6A63 and 6A64 do not apply to the person.

Note Item 6A62 was omitted, and new items 6A63 and 6A64 inserted, with effect from 1 July 2003. The items have substantially different effects, and the purpose of this provision is to ensure that certain persons are not disadvantaged by the effect of the new item.

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.1	Occupational qualifications

Schedule 6B **General points test — qualifications and points (General Skilled Migration visas)**

(regulation 2.26AA)

Part 6B.1 **Occupational qualifications**

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B11	The applicant has a suitable skills assessment for his or her nominated skilled occupation for which 60 points are available <i>Note</i> skilled occupation is defined in regulation 1.03	60
6B12	The applicant has a suitable skills assessment for his or her nominated skilled occupation for which 50 points are available	50
6B13	The applicant has a suitable skills assessment for his or her nominated skilled occupation for which 40 points are available	40

Part 6B.2 **Age qualifications**

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B21	The applicant is aged not less than 18 years and under 30 years at the time of application	30
6B22	The applicant is aged not less than 30 years and under 35 years at the time of application	25
6B23	The applicant is aged not less than 35 years and under 40 years at the time of application	20
6B24	The applicant is aged not less than 40 years and under 45 years at the time of application	15

Part 6B.3 English language qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B31	The applicant has proficient English	25
6B32	The applicant has competent English	15
6B33	The applicant: <ul style="list-style-type: none"> (a) has applied for: <ul style="list-style-type: none"> (i) a Subclass 487 (Skilled — Regional Sponsored) visa; or (ii) a Subclass 885 (Skilled — Independent) visa; or (iii) a Subclass 886 (Skilled — Sponsored) visa; and (b) has nominated a skilled occupation in Major Group IV in the Australian Standard Classification of Occupations; and (c) has vocational English 	15
6B34	The applicant has applied for Subclass 487 (Skilled — Regional Sponsored) visa, and: <ul style="list-style-type: none"> (a) both of the following occur: <ul style="list-style-type: none"> (i) the Minister has approved a nomination by a State or Territory specified by the Minister in an instrument in writing for this item as a State or Territory in which arrangements are established for suitable English language training; (ii) the applicant: <ul style="list-style-type: none"> (A) has concessional competent English; and (B) has paid the required fee or charge for English language training in the nominating State or Territory; or 	15

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.4	Specific employment qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (b) both of the following occur: <ul style="list-style-type: none"> (i) the Minister has accepted a sponsorship by a person living in a State or Territory specified by the Minister in an instrument in writing for this item as a State or Territory in which arrangements are established for suitable English language training; (ii) the applicant: <ul style="list-style-type: none"> (A) has concessional competent English; and (B) has paid the required fee or charge for English language training in the State or Territory in which the sponsor resides 	
6B35	The applicant: <ul style="list-style-type: none"> (a) has applied for a Subclass 475 (Skilled — Regional Sponsored) visa; and (b) has concessional competent English 	15

Part 6B.4 Specific employment qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B41	The applicant nominated a skilled occupation for which 60 points are available and has been employed in that skilled occupation, or a closely related skilled occupation, for a period totalling at least 36 months in the 48 months immediately before the day on which the application was made	10

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B42	The applicant has been employed in a skilled occupation for a period totalling, at least 36 months in the 48 months immediately before the day on which the application was made	5

Part 6B.5 Australian employment qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B51	The applicant has been employed in Australia, in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made	10
6B52	The applicant has completed a professional year in Australia in the applicant's nominated skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made	10

Part 6B.6 Australian educational qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B61	The applicant has met the requirements for award of a doctorate by an Australian educational institution as a result of a course of study of at least 2 academic years: (a) undertaken while the applicant was present in Australia; and (b) for which all instruction was conducted in English	25

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.6	Australian educational qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B62	<p>The applicant has undertaken study for a period totalling at least 3 academic years, while being in Australia, during which the applicant:</p> <ul style="list-style-type: none"> (a) met the requirements for award of a masters degree or an honours degree (Second Class (Division 1) level or above), by an Australian educational institution as a result of a course of study of at least 1 academic year; and (b) met the requirements for award of an undergraduate degree, which is closely related to the masters degree or honours degree mentioned in paragraph (a), by an Australian educational institution as a result of a course of study of at least 1 academic year: <ul style="list-style-type: none"> (i) undertaken while the applicant was present in Australia; and (ii) for which all instruction was conducted in English 	15
6B63	<p>The applicant has met the requirements for award of an undergraduate degree with honours (Second Class (Division 1) or above) by an Australian educational institution as a result of a course of study of at least 3 academic years:</p> <ul style="list-style-type: none"> (a) undertaken while the applicant was present in Australia; and (b) for which all instruction was conducted in English 	15
6B64	<p>The applicant satisfies the Australian study requirement</p> <p><i>Note 1</i> Academic year is defined in regulation 1.03</p> <p><i>Note 2</i> Regulation 1.03 provides that Australian study requirement has the meaning set out in regulation 1.15F</p>	5

Part 6B.7 Occupation in demand qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B71	<p>The applicant:</p> <ul style="list-style-type: none"> (a) has nominated a migration occupation in demand in his or her application; and (b) has been employed in that skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made; and (c) has an offer of full-time employment in that occupation in an organisation that had at least 10 full-time employees at all times in the 24 months immediately before the day on which the application was made 	20
6B72	<p>The applicant:</p> <ul style="list-style-type: none"> (a) has nominated a migration occupation in demand in his or her application; and (b) has been employed in that skilled occupation, or a closely related skilled occupation, for a period totalling at least 12 months in the 48 months immediately before the day on which the application was made 	15

Part 6B.8 Designated language qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B81	<p>The applicant:</p> <ul style="list-style-type: none"> (a) is the holder of a qualification (that is of an equivalent standard to a degree awarded by an Australian tertiary educational institution) the tuition for which was conducted in a designated language; or 	5

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.9	Study in regional Australia or a low-population growth metropolitan area qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	(b) is accredited as a professional interpreter or translator (level 3) in a designated language by the National Accreditation Authority for Translators and Interpreters	
	<i>Note</i> <i>designated language</i> is defined in regulation 1.03	

Part 6B.9 Study in regional Australia or a low-population growth metropolitan area qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B91	Each of the following paragraphs applies in relation to the applicant: <ul style="list-style-type: none"> (a) the applicant meets the Australian study requirement; (b) the location of the campus or campuses at which that study was undertaken is specified by the Minister in an instrument in writing for item 6A1001 of Schedule 6A; (c) while the applicant undertook the course of study the applicant lived in a part of Australia the postcode of which is specified by the Minister in an instrument in writing for item 6A1001 of Schedule 6A; (d) none of the study undertaken constituted distance education 	5

Part 6B.10 Partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B101	<p>The spouse or de facto partner of the applicant:</p> <ul style="list-style-type: none">(a) is an applicant for:<ul style="list-style-type: none">(i) a Subclass 175 (Skilled — Independent) visa; or(ii) a Subclass 176 (Skilled — Sponsored) visa; and(b) is an applicant for the same subclass of visa as the applicant; and(c) is not an Australian permanent resident or an Australian citizen; and(d) is, at the time of application, under 45 years of age; and(e) has nominated a skilled occupation in his or her application; and(f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and(g) has competent English; and(h) either:<ul style="list-style-type: none">(i) has met the Australian study requirement:<ul style="list-style-type: none">(A) in the period of 6 months ending immediately before the day the application was made; and(B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or	5

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.10	Partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	(ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day	
6B102	<p>The spouse or de facto partner of the applicant:</p> <ul style="list-style-type: none"> (a) is an applicant for a Subclass 475 (Skilled — Regional Sponsored) visa; and (b) is an applicant for the same subclass of visa as the applicant; and (c) is not an Australian permanent resident or an Australian citizen; and (d) is, at the time of application, under 45 years of age; and (e) has nominated a skilled occupation in his or her application; and (f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and (g) has concessional competent English; and (h) either: <ul style="list-style-type: none"> (i) has met the Australian study requirement: <ul style="list-style-type: none"> (A) in the period of 6 months ending immediately before the day the application was made; and (B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or 	15

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B103	<p>(ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day</p> <p>The spouse or de facto partner of the applicant:</p> <p>(a) is an applicant for a Subclass 487 (Skilled — Regional Sponsored) visa; and</p> <p>(b) is an applicant for the same subclass of visa as the applicant; and</p> <p>(c) is not an Australian permanent resident or an Australian citizen; and</p> <p>(d) is, at the time of application, under 45 years of age; and</p> <p>(e) has nominated a skilled occupation in his or her application; and</p> <p>(f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and</p> <p>(g) either:</p> <p>(i) has nominated a skilled occupation in Major Group IV in the Australian Standard Classification of Occupations and has vocational English; or</p> <p>(ii) if the Minister has approved a nomination by a State or Territory specified by the Minister in an instrument in writing for this item as a State or Territory in which arrangements are established for suitable English language training:</p> <p>(A) has concessional competent English; and</p>	5

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.10	Partner skill qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<ul style="list-style-type: none"> (B) has paid the required fee or charge for English language training in the nominating State or Territory; or (iii) if the Minister has accepted a sponsorship by a person living in a State or Territory specified by the Minister in an instrument in writing for this item as a State or Territory in which arrangements are established for suitable English language training: <ul style="list-style-type: none"> (A) has concessional competent English; and (B) has paid the required fee or charge for English language training in the State or Territory in which the sponsor resides; and (h) either: <ul style="list-style-type: none"> (i) has met the Australian study requirement: <ul style="list-style-type: none"> (A) in the period of 6 months ending immediately before the day the application was made; and (B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or (ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day 	

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B104	<p>The spouse or de facto partner of the applicant:</p> <ul style="list-style-type: none">(a) is an applicant for:<ul style="list-style-type: none">(i) a Subclass 885 (Skilled — Independent) visa; or(ii) a Subclass 886 (Skilled — Sponsored) visa; and(b) is an applicant for the same subclass of visa as the applicant; and(c) is not an Australian permanent resident or an Australian citizen; and(d) is, at the time of application, under 45 years of age; and(e) has nominated a skilled occupation in his or her application; and(f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and(g) either:<ul style="list-style-type: none">(i) has nominated a skilled occupation in Major Group IV in the Australian Standard Classification of Occupations and has vocational English; or(ii) has competent English; and(h) either:<ul style="list-style-type: none">(i) has met the Australian study requirement:<ul style="list-style-type: none">(A) in the period of 6 months ending immediately before the day the application was made; and	5

Schedule 6B	General points test — qualifications and points (General Skilled Migration visas)
Part 6B.11	State or Territory nomination qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
	<p>(B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or</p> <p>(ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day</p>	

Part 6B.11 State or Territory nomination qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B111	<p>The applicant:</p> <p>(a) has applied for 1 of the following visas:</p> <p>(i) a Subclass 176 (Skilled — Sponsored) visa;</p> <p>(ii) a Subclass 475 (Skilled — Regional Sponsored) visa;</p> <p>(iii) a Subclass 487 (Skilled — Regional Sponsored) visa;</p> <p>(iv) a Subclass 886 (Skilled — Sponsored) visa; and</p> <p>(b) has been nominated by a State or Territory government agency for the purposes of the visa application;</p> <p>and the Minister has accepted the nomination</p>	10

Part 6B.12 Designated area sponsorship qualifications

Column 1 Item	Column 2 Qualification	Column 3 Number of points
6B121	<p>The applicant:</p> <ul style="list-style-type: none"> (a) has applied for 1 of the following visas: <ul style="list-style-type: none"> (i) a Subclass 475 (Skilled — Regional Sponsored) visa; (ii) a Subclass 487 (Skilled — Regional Sponsored) visa; and (b) has been sponsored by a relative; <p>and the Minister has accepted the sponsorship</p>	25

Schedule 7 Business skills points test — attributes and points

(regulation 1.03)

Part 1 Business attributes

Column 1 Item	Column 2 Attributes	Column 3 Number of points
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Division 1.4 Established business in Australia (Subclass 845 visas)

7170	<p>In the period of 12 months ending immediately before the application is made:</p> <ul style="list-style-type: none">(a) the total number of hours of employment provided by the main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) was at least equivalent to the total number of hours that would have been worked by 3 full-time employees over that period of 12 months, each of those hours having been worked by an employee, or employees, who:<ul style="list-style-type: none">(i) were not the applicant or a member of the family unit of the applicant; and(ii) were Australian citizens, Australian permanent residents or eligible New Zealand citizens; and(b) the main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) either:<ul style="list-style-type: none">(i) had a turnover of not less than AUD200 000; or(ii) exported goods or services of a value of not less than AUD100 000	60
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Column 1 Item	Column 2 Attributes	Column 3 Number of points
Division 1.5	State/Territory sponsored established main business(es) in designated area(s) (Subclass 846 visas)	
7180	<p>In the period of 2 years ending immediately before the application is made, the total number of hours of employment provided by the established main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) in a designated area (or areas) was at least equivalent to the total number of hours that would have been worked by 3 full-time employees over that period of 2 years, each of those hours having been worked by an employee, or employees, who:</p> <ul style="list-style-type: none"> (a) were not the applicant or a member of the family unit of the applicant; and (b) were Australian citizens, Australian permanent residents or eligible New Zealand citizens 	60
7181	<p>In the period of 2 years ending immediately before the application is made, the total number of hours of employment provided by the established main business (or businesses) of the applicant (or the applicant and the applicant's spouse or de facto partner) in a designated area (or areas) was at least equivalent to the total number of hours that would have been worked by 2 full-time employees over that period of 2 years, each of those hours having been worked by an employee, or employees, who:</p> <ul style="list-style-type: none"> (a) were not the applicant or a member of the family unit of the applicant; and (b) were Australian citizens, Australian permanent residents or eligible New Zealand citizens 	40

Part 2 Age of applicant at time of application

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7201	Not less than 30 years but less than 45 years	30
7202	Not less than 45 years but less than 50 years	25
7203	Not less than 20 years but less than 30 years	20
7204	Not less than 50 years but less than 55 years	10
7205	Less than 20 years or 55 years or more	0

Part 3 Language ability of applicant

Column 1 Item	Column 2 Attributes	Column 3 Number of points
Division 3.1 Language ability of applicant (Subclasses 845 and 846)		
7301	Better than functional ability in English	30
7302	Functional ability in English	20
7303	Bilingual in languages other than English	10
7304	Limited ability in English	10
7305	No ability in English	0

Part 4 Net assets of applicant or of applicant and applicant's spouse or de facto partner together

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7401	Not less than the equivalent of AUD2,500,000	15
7402	Not less than the equivalent of AUD1,500,000 but less than the equivalent of AUD2,500,000	10

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7403	Not less than the equivalent of AUD500,000 but less than the equivalent of AUD1,500,000	5
7404	Less than the equivalent of AUD500,000	0

Part 5 Sponsorship

Column 1 Item	Column 2 Attributes	Column 3 Number of points
7501	Sponsorship by the appropriate regional authority	15

Schedule 8 Visa conditions

(subregulations 2.05 (1) and (2))

Note 1 Whether a visa of a particular class may be made subject to any of these conditions depends on the relevant provision in Schedule 2.

Note 2 As to cancellation for breaches of conditions, see the Act, ss. 41 and 116 to 119.

- 8101 The holder must not engage in work in Australia.
- 8102 The holder must not engage in work in Australia (other than in relation to the holder's course of study or training).
- 8103 The holder must not receive salary in Australia without the permission in writing of the Secretary.
- 8104 (1) Subject to subclauses (2) to (6), the holder must not engage in work for more than 20 hours a week while the holder is in Australia.
- (2) If the holder is a member of the family unit of a person who satisfies the primary criteria for the grant of a student visa, the holder must not engage in work in Australia until the person who satisfies the primary criteria has commenced a course of study.
- (3) If the holder is able to engage in work in accordance with subclause (2), the holder must not engage in work for more than 20 hours a week while the holder is in Australia unless subclause (4) or (5) applies.
- (4) Subclause (3) does not apply if:
- (a) the visa for which the primary criteria were satisfied is:
- (i) a Subclass 573 (Higher Education Sector) visa; or
 - (ii) a Subclass 574 (Postgraduate Research Sector) visa;
- and
- (b) the course of study is a course for the award of a masters or doctorate degree that is registered on the Commonwealth Register of Institutions and Courses of Overseas Students.

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- (5) Subclause (3) does not apply if:
- (a) the visa for which the primary criteria were satisfied is a Subclass 576 (AusAID or Defence Sector) visa; and
 - (b) the course of study is a course for the award of a masters or doctorate degree.
- (6) In this clause:
week means the period of 7 days commencing on a Monday.
- 8105 (1A) The holder must not engage in any work in Australia before the holder's course of study commences.
- (1) Subject to subclause (2), the holder must not engage in work in Australia for more than 20 hours a week during any week when the holder's course of study or training is in session.
- (2) Subclause (1) does not apply to work that was specified as a requirement of the course when the course particulars were entered in the Commonwealth Register of Institutions and Courses for Overseas Students.
- (3) In this clause:
week means the period of 7 days commencing on a Monday.
- 8106 The holder must engage in work in Australia only if the work is relevant to the conduct of the business, or performance of the tasks, specified in the visa application.
- 8107 The holder must not:
- (a) if the visa was granted to enable the holder to be employed in Australia:
 - (i) cease to be employed by the employer in relation to which the visa was granted; or
 - (ii) work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; or
 - (iii) engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted; or

- (b) in any other case:
 - (i) cease to undertake the activity in relation to which the visa was granted; or
 - (ii) engage in an activity inconsistent with the activity in relation to which the visa was granted; or
 - (iii) engage in work for another person or on the holder's own account inconsistent with the activity in relation to which the visa was granted.

- 8108 The holder must not be employed in Australia by any 1 employer for more than 3 months, without the prior permission in writing of the Secretary.

- 8109 The holder must not change details of times and places of engagements specified in the application to be undertaken in Australia during the visa period, without the prior permission in writing of the Secretary.

- 8110 The holder:
 - (a) must not engage in work in Australia except in the household of the employer in relation to whom the visa was granted; and
 - (b) must not work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; and
 - (c) must not engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted; and
 - (d) must not cease to be employed by the employer in relation to which the visa was granted, unless paragraph (e) applies; and
 - (e) except with the written permission of the Foreign Minister, must not remain in Australia after the permanent departure of that employer.

- 8111 The holder must not:
 - (a) perform work in Australia except in the household of the employer who is the holder's sponsor in relation to the visa; or

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- (b) remain in Australia after the permanent departure of that employer.
- 8112 The holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident.
 - 8113 The holder must not work in Australia otherwise than as a member of the crew of a non-military ship.
 - 8114 The holder must not work in Australia otherwise than as a member of the crew of a superyacht.
 - 8201 While in Australia the holder must not engage, for more than 3 months, in any studies or training.
 - 8202
 - (1) The holder (other than the holder of a Subclass 560 (Student) visa who is an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa) must meet the requirements of subclauses (2) and (3).
 - (2) A holder meets the requirements of this subclause if:
 - (a) the holder is enrolled in a registered course; or
 - (b) in the case of the holder of a Subclass 560 or 571 (Schools Sector) visa who is a secondary exchange student — the holder is enrolled in a full-time course of study or training.
 - (3) A holder meets the requirements of this subclause if neither of the following applies:
 - (a) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course progress for:
 - (i) section 19 of the *Education Services for Overseas Students Act 2000*; and
 - (ii) standard 10 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007;
 - (b) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course attendance for:
 - (i) section 19 of the *Education Services for Overseas Students Act 2000*; and

(ii) standard 11 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007.

(4) In the case of the holder of a Subclass 560 visa who is an AusAID student or the holder of a Subclass 576 (AusAID or Defence Sector) visa — the holder is enrolled in a full-time course of study or training.

8203 The holder must not change his or her course of study, or thesis or research topic, unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.

8204 The holder must not undertake or change a course of study or research, or thesis or research topic, for:

- (a) a graduate certificate, a graduate diploma, a master's degree or a doctorate; or
- (b) any bridging course required as a prerequisite to a course of study or research for a master's degree or a doctorate;

unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.

8205 If the holder is at least 11 years of age and:

- (a) is from a country other than a country that is designated, by Gazette Notice, as a country in relation to which this condition does not apply; and
- (b) intends to study in a class-room environment for a period greater than 4 weeks;

the holder must, before commencing that study, pass a chest X-ray examination carried out by a medical practitioner who is qualified as a radiologist.

8207 The holder must not engage in any studies or training in Australia.

8301 After entry to Australia, the holder must satisfy relevant public interest criteria before the visa ceases.

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- 8302 After entry to Australia, all relevant members of the family unit must satisfy the relevant public interest criteria before the visa ceases.
- 8303 The holder must not become involved in activities disruptive to, or violence threatening harm to, the Australian community or a group within the Australian community.
- 8401 The holder must report:
- (a) at a time or times; and
 - (b) at a place;
- specified by the Minister for the purpose.
- 8402 The holder must report:
- (a) within 5 working days of grant, to an office of Immigration; and
 - (b) to that office on the first working day of every week after reporting under paragraph (a).
- 8403 The holder must visit an office of Immigration specified by the Minister for the purpose, within the time specified by the Minister for the purpose, to have evidence of the visa placed in the holder's passport.
- 8501 The holder must maintain adequate arrangements for health insurance while the holder is in Australia.
- 8502 The holder of the visa must not enter Australia before the entry to Australia of a person specified in the visa.
- 8503 The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa, while the holder remains in Australia.
- 8504 The holder must enter Australia as the holder of the visa to which the condition applies before a date specified by the Minister.
- 8505 The holder must continue to live at the address specified by the holder before grant of the visa.
- 8506 The holder must notify Immigration at least 2 working days in advance of any change in the holder's address.

- 8507 The holder must, within the period specified by the Minister for the purpose:
- (a) pay; or
 - (b) make an arrangement that is satisfactory to the Minister to pay;
- the costs (within the meaning of Division 10 of Part 2 of the Act) of the holder's detention.
- 8508 The holder must make a valid application for a visa of a class that can be granted in Australia, within the time specified by the Minister for the purpose.
- Note* For the meaning of **valid application** see s 46 of the Act. Broadly, a valid application is one that is formally in order for consideration, not necessarily one that can be granted.
- 8509 Within 5 working days after the date of grant, the holder must:
- (a) make a valid application for a substantive visa; or
 - (b) show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8510 Within the time specified by the Minister for the purpose, the holder must, either:
- (a) show an officer a passport that is in force; or
 - (b) make an arrangement satisfactory to the Minister to obtain a passport.
- 8511 Within the time specified by the Minister for the purpose, the holder must, show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8512 The holder must leave Australia by the date specified by the Minister for the purpose.
- 8513 The holder must notify Immigration of his or her residential address within 5 working days of grant.
- 8514 During the visa period of the visa, there must be no material change in the circumstances on the basis of which it was granted.

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- 8515 The holder of the visa must not marry or enter into a de facto relationship before entering Australia.
- 8516 The holder must continue to be a person who would satisfy the primary or secondary criteria, as the case requires, for the grant of the visa.
- 8517 The holder must maintain adequate arrangements for the education of any school-age dependant of the holder who is in Australia for more than 3 months as the holder of a Subclass 560, 570, 571, 572, 573, 574, 575 or 576 visa (as a person who has satisfied the secondary criteria) or Subclass 563 visa.
- 8518 Adequate arrangements must be maintained for the education of the holder while he or she is in Australia.
- 8519 The holder must enter into the marriage in relation to which the visa was granted within the visa period of the visa.
- 8520 The relevant person who holds a Subclass 300 visa on the basis of having satisfied the primary criteria must enter into the marriage in relation to which that visa was granted within the visa period of that visa.
- 8522 The holder must leave Australia not later than the time of departure of the person:
- (a) who has satisfied the primary criteria; and
 - (b) of whose family unit the holder is a member.
- 8523 Each person who:
- (a) is a member of the family unit of the holder (being a spouse or de facto partner of the holder or an unmarried child of the holder who has not turned 18); and
 - (b) has satisfied the secondary criteria; and
 - (c) holds a student visa because of paragraphs (a) and (b);
- must leave Australia not later than the time of departure of the holder.
- 8524 The holder must satisfy the remaining criteria (within the meaning of Part 303 of Schedule 2) on or before a date specified by the Minister.

- 8525 The holder must leave Australia by a specified means of transport on a specified day or within a specified period.
- 8526 The holder must notify the Secretary in writing, not earlier than 7 days before the day the visa ceases to be in effect, and not later than that day, of the holder's place of residence in Australia by posting the notification to the Central Office of Immigration in the Australian Capital Territory.
- 8527 The holder must be free from tuberculosis at the time of travel to, and entry into, Australia.
- 8528 The holder must not have one or more criminal convictions, for which the sentence or sentences (whether served or not) are for a total period of 12 months duration or more, at the time of travel to, and entry into, Australia.
- 8529 The holder must, after entering Australia:
- (a) undergo a medical examination carried out by:
 - (i) a Commonwealth Medical Officer; or
 - (ii) a medical practitioner approved by the Minister; or
 - (iii) a medical practitioner employed by an organisation approved by the Minister; and
 - (b) undergo a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia, unless the holder:
 - (i) is under 11 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
 - (ii) is a person:
 - (A) who is confirmed by a Commonwealth Medical Officer to be pregnant; and
 - (B) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
 - (C) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and

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- (D) whom the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- 8530 The holder must not discontinue, or deviate from, the tour arrangements approved, in writing, by the Minister under subparagraph 676.221 (2) (d) (ii).
- 8531 The holder must not remain in Australia after the end of the period of stay permitted by the visa.
- 8532 If the holder has not turned 18 and is not an AusAID student or a Defence student:
- (a) the holder must stay in Australia with a person who is:
 - (i) a parent of the holder or a person who has custody of the holder; or
 - (ii) a relative of the holder who:
 - (A) is nominated by a parent of the holder or a person who has custody of the holder; and
 - (B) has turned 21; and
 - (C) is of good character; or
 - (b) the arrangements for the holder's accommodation, support and general welfare must be approved by the education provider for the course to which the holder's visa relates, and the holder must not enter Australia before the day nominated by the education provider as the day on which those arrangements are to commence.
- 8533 The holder must:
- (a) in the case of a holder who was outside Australia when the visa was granted, notify the education provider of the holder's residential address in Australia within 7 days after arriving in Australia; and
 - (b) in all cases:
 - (i) notify the education provider of any change in the holder's residential address in Australia within 7 days after the change occurs; and

- (ii) notify his or her current education provider of a change of education provider within 7 days after the holder receives:
 - (A) a certificate of enrolment from the new education provider; or
 - (B) if no certificate of enrolment is required to be sent, or if a failure of electronic transmission has prevented an education provider from sending a certificate of enrolment—evidence that the applicant has been enrolled by the new education provider.
- 8534 The holder will not be entitled to be granted a substantive visa, other than:
 - (a) a protection visa; or
 - (b) a student visa the application for which must be made on form 157P or 157P (Internet); or
 - (c) a Subclass 497 (Graduate — Skilled) visa; or
 - (d) a Subclass 580 (Student Guardian) visa;while the holder remains in Australia.
- 8535 The holder will not be entitled to be granted a substantive visa, other than:
 - (a) a protection visa; or
 - (b) a student visa the application for which must be made on form 157P or 157P (Internet); or
 - (c) a Student (Temporary) (Class TU) visa that is granted to an applicant who satisfies the criterion in clause 570.230, 571.229, 572.229, 573.229, 574.229, 575.229, 576.227 or 580.229 of Schedule 2;while the holder remains in Australia.
- 8536 The holder must not discontinue, or deviate from, the professional development program in relation to which the visa was granted.
- 8537 (1) While the nominating student (within the meaning of Part 580 of Schedule 2) in relation to the holder is in Australia, the holder must reside in Australia.

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- (2) While the holder is in Australia, the holder must:
 - (a) stay with the nominating student (within the meaning of Part 580 of Schedule 2) in relation to the holder; and
 - (b) provide appropriate accommodation and support for the nominating student; and
 - (c) provide for the general welfare of the nominating student.
- 8538 If the holder leaves Australia without the nominating student (within the meaning of Part 580 of Schedule 2) in relation to the holder, the holder must first give to the Minister evidence that:
- (a) there are compelling or compassionate reasons for doing so; and
 - (b) the holder has made alternative arrangements for the accommodation, support and general welfare of the nominating student until the holder's return to Australia; and
 - (c) if the nominating student has not turned 18, the alternative arrangements are approved by the education provider for the course to which the nominating student's visa relates.
- 8539 While the holder is in Australia, the holder must live, study and work only in an area specified by the Minister in an instrument in writing for item 6A1001 of Schedule 6A, as in force:
- (a) when the visa was granted; or
 - (b) if the holder has held more than 1 visa that is subject to this condition — when the first of those visas was granted.
- 8540 The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa or a Subclass 462 (Work and Holiday) visa, while the holder remains in Australia.
- 8541 The holder:
- (a) must do everything possible to facilitate his or her removal from Australia; and
 - (b) must not attempt to obstruct efforts to arrange and effect his or her removal from Australia.

- 8542 The holder must make himself or herself available for removal from Australia in accordance with instructions given to the holder by Immigration for the purpose of that removal.
- 8543 The holder must attend at a place, date and time specified by Immigration in order to facilitate efforts to arrange and effect his or her removal from Australia.
- 8547 The holder must not be employed by any 1 employer for more than 6 months, without the prior permission in writing of the Secretary.
- 8548 The holder must not engage in any studies or training in Australia for more than 4 months.
- 8549 While the holder is in Australia, the holder must live, study and work only in an area specified by the Minister in an instrument in writing for item 6701 of Schedule 6, as in force:
- (a) when the visa was granted; or
 - (b) if the holder has held more than 1 visa that is subject to this condition — when the first of those visas was granted.

Schedule 8A Amount of partial refund

(regulation 2.121)

Item	Period during which paid (dates inclusive)	Type A payment	Type B payment
8901	1 May 1997 to 30 June 1997	\$4,405	\$2,200
8902	1 July 1997 to 30 June 1998	\$4,470	\$2,235
8903	From 1 July 1998	\$4,485	\$2,240

In the table above:

Type A payment means a second instalment of the visa application charge assessed under any of the following subparagraphs of Schedule 1:

- (a) subparagraph 1104 (2) (b) (i);
- (b) subparagraph 1114 (2) (b) (i);
- (c) subparagraph 1121 (2) (b) (i).

Type B payment means a second instalment of the visa application charge assessed under any of the following subparagraphs of Schedule 1:

- (a) subparagraph 1104 (2) (b) (ii);
- (b) subparagraph 1110 (2) (b) (i);
- (c) subparagraph 1112 (2) (b) (i);
- (d) subparagraph 1114 (2) (b) (ii);
- (g) subparagraph 1118 (2) (b) (i);
- (h) subparagraph 1120 (2) (b) (i);
- (i) subparagraph 1121 (2) (b) (ii);
- (j) subparagraph 1128A (2) (b) (i).

Schedule 9 Special entry and clearance arrangements

(regulations 3.01, 3.03, 3.06 and 3.06A)

Part 1 Persons to whom special arrangements apply under section 166 of the Act

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
1	Members of the Royal Family	Passport	Yes
2	Members of the Royal party	Passport	Yes
4	SOFA forces members who arrive at an airport that is not a proclaimed port	Military identity documents and movement orders	No
5	SOFA forces members who arrive at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
6	SOFA forces civilian component members who arrive at an airport that is not a proclaimed port	Passport and certificate that the person is a member of the civilian component of the armed forces of the relevant country	No
7	SOFA forces civilian component members who arrive at a proclaimed port	Passport and certificate that the person is a member of the civilian component of the armed forces of the relevant country	Yes

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
8	Asia-Pacific forces members arriving at an airport that is not a proclaimed port	Military identity documents and movement orders	No
9	Asia-Pacific forces members arriving at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
10	Commonwealth forces members who arrive at an airport that is not a proclaimed port	Military identity documents and movement orders	No
11	Commonwealth forces members who arrive at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
12	Foreign armed forces dependants who arrive at an airport that is not a proclaimed port	A passport and either: (a) movement orders; or (b) a certificate that the person is a spouse, de facto partner or dependant of a member of the armed forces, or the civilian component of the armed forces of the relevant country, and is accompanying or joining that member	No

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
13	Foreign armed forces dependants who arrive at an airport that is a proclaimed port	A passport and either: (a) movement orders; or (b) a certificate that the person is a spouse, de facto partner or dependant of a member of the armed forces, or the civilian component of the armed forces of the relevant country, and is accompanying or joining that member	Yes
14	Airline crew members	Passport and either: (a) a valid airline identity card; or (b) for a person who is an aircraft safety inspector: (i) a valid government identity document showing that he or she is employed by a foreign government; or (ii) an ICAO Safety Inspector Certificate	No

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
15	Airline positioning crew members	Passport and a letter from the person's employer certifying that the person is an aircrew member and setting out the purpose of travel and the arrangements for the person to leave Australia	Yes
17	Non-citizen in respect of whom the Minister has made a declaration under paragraph 33 (2) (b) of the Act	Passport	Yes
21	Persons holding an Electronic Travel Authority (Class UD) visa	A passport that is an ETA-eligible passport in relation to the Subclass of the Electronic Travel Authority (Class UD) visa held by the person	Yes
22	Person referred to in paragraph 1223A (1) (c) of Schedule 1 who holds a Temporary Business Entry (Class UC) visa	(a) a passport of a designated APEC economy; or (b) in the case of a permanent resident of Hong Kong — any valid passport	Yes

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
23	Persons holding: (a) a visa granted on the basis of an Internet application; and (b) a passport of a kind specified by Gazette Notice for paragraph 1218 (3) (d) of Schedule 1 or paragraph 417.211 (3) (a) or (b) of Schedule 2	The passport mentioned in column 2	Yes
24	Persons holding a Visitor (Class TV) visa	A passport that is an eVisitor eligible passport in relation to the Subclass of the Visitor (Class TV) visa held by the person	Yes

Note Paragraph 33 (2) (b) of the Act authorises the Minister to declare that persons, or persons in a particular class, are taken to have been granted special purpose visas.

Part 2 Persons not required to comply with section 166 of the Act

- 1 Transit passengers:
 (a) who belong to a class of persons specified in a Gazette Notice for the purposes of paragraph 2.40 (1) (n); and
 (b) who do not leave the airport transit lounge except to continue their journey
- 1A A person:
 (a) to whom section 10 applies; and

(b) who has not left the migration zone.

Note Section 10 of the Act provides that a child who was born in the migration zone, and was a non-citizen when he or she was born, is taken to have entered Australia at birth. This item ensures that a newborn child is not required to give evidence of identity at the time of birth in the migration zone.

- 2 Persons visiting Macquarie Island, if permission for the visit has been granted in writing before the visit by the Secretary to the Department of Environment and Land Management of the State of Tasmania
- 3 Australian citizens who form part of an Australian National Antarctic Research Expedition from an Australian Antarctic station, and who are returning to Australia on board a vessel owned or chartered by the Commonwealth
- 4 SOFA forces members who:
 - (a) enter Australia at a seaport; and
 - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
 - (c) are travelling to Australia in the course of their duty
- 5 Asia-Pacific forces members who:
 - (a) enter Australia at a seaport; and
 - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
 - (c) are travelling to Australia in the course of their duty
- 6 Commonwealth forces members who:
 - (a) enter Australia at a seaport; and
 - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
 - (c) are travelling to Australia in the course of their duty
- 7 Foreign naval forces members, if permission to enter the migration zone for the vessel of which they form part of the complement was given in advance by the Australian Government
- 8 Guests of Government

- 9 Indonesian traditional fishermen who have prescribed status under regulation 2.40
- 10 A designated foreign dignitary
Note See regulation 3.06A.

Schedule 10 Prescribed forms

(regulation 1.03)

Form 1 Search Warrant — Valuables

(subregulation 5.32 (1))

COMMONWEALTH OF AUSTRALIA

Migration Act 1958

Search Warrant — Valuables

To (*insert name of officer and capacity by virtue of which he or she is an officer within the meaning of the Act*).

I, (*name*), the Secretary [*or a delegate of the Secretary*] of the Department of Immigration and Multicultural Affairs, authorise you, (*insert name of officer*), under subsection 223 (14) of the *Migration Act 1958* (the Act), at any time of the day or night, with such assistance, and using such reasonable force, as you think necessary:

- (a) to enter and search any building, premises, vehicle, vessel or place in which you have reasonable cause to believe there may be found any valuables to which a notice in force under section 223 of the Act relates; and
- (b) to seize any such valuables found in the course of such a search;

and for the purposes of the exercise of the foregoing powers, to stop any vehicle.

And for doing so this shall be your sufficient warrant.

This warrant remains in force for the period commencing on 19

and ending on 19 .

Dated 19 .

Secretary [*or Delegate*]

Form 2 Search warrant

(subregulation 5.32 (2))

COMMONWEALTH OF AUSTRALIA

Migration Act 1958

Search Warrant

To (*insert name of officer and capacity by virtue of which he or she is an officer within the meaning of the Act*).

I, (*name*), the Secretary [*or a delegate of the Secretary*] of the Department of Immigration and Multicultural Affairs, authorise you, under subsection 251 (4) of the *Migration Act 1958* (the Act), at any time of the day or night, with such assistance as you think necessary, to enter and search any building, premises, vehicle, vessel or place in which you have reasonable cause to believe there may be found:

- (a) an unlawful non-citizen, a removee or a deportee, within the meaning of the Act; or
- (b) a person to whom a temporary visa under the Act has been issued subject to a condition with respect to the work to be performed by that person; or
- (c) any document, book or paper relating to the entry or proposed entry into Australia of a person in circumstances in which that person:
 - (i) would have become a prohibited immigrant within the meaning of the Act as in force from time to time before the commencement of the *Migration Amendment Act 1983*; or
 - (ii) would have become a prohibited non-citizen within the meaning of the Act as in force from time to time after the commencement of the *Migration Amendment Act 1983* but before the commencement of section 4 of the *Migration Legislation Amendment Act 1989*; or
 - (iii) would have become an illegal entrant within the meaning of the Act as in force from time to time after the commencement of section 4 of the *Migration Legislation Amendment Act 1989* but before commencement of section 7 of the *Migration Reform Act 1992*; or
 - (iv) would have become, or would become, an unlawful non-citizen; or
- (d) any passport or document of identity of, or any ticket for the conveyance from a place within Australia to a place outside Australia

of, an unlawful non-citizen, a removee or a deportee, within the meaning of the Act;

and to seize any such document, book, paper, passport, document of identity or ticket, as the case may be, and to impound and detain it for such time as you think necessary, and for the purposes of the exercise of the foregoing powers to stop any vessel or vehicle and to use such reasonable force as is necessary.

And for doing so this shall be your sufficient warrant.

This warrant remains in force for the period commencing on 19
and ending on 19 .

Dated 19

..... Secretary [*or Delegate*]

**Form 3 Document issued in accordance with
Annex 9 of the ICAO Convention on
International Civil Aviation**

(regulation 5.33)

COMMONWEALTH OF AUSTRALIA

Migration Act 1958

DOCUMENT ISSUED IN ACCORDANCE WITH ANNEX 9 OF THE
ICAO CONVENTION ON INTERNATIONAL CIVIL AVIATION

This document is issued by the Australian Government under subsection 274 (3) of the *Migration Act 1958* of the Commonwealth of Australia.

TO: Immigration or appropriate

authority:

Airport:.....

Country:.....

*Attach
photograph
(if available)*

The person to whom this document is issued is claiming the following identity:

Surname:.....

Given Name(s):

Date of Birth:..... Place of Birth:

.....

Nationality:

..... Residence:

.....
This person arrived in Australia on at Airport on
flight number from Airport.

The person named in this document:
*is being removed from Australia/*is being deported from Australia/*was
refused immigration clearance after entering Australia
and the incoming carrier has been instructed to remove *him/*her from the
territory of Australia on flight number departing at
hours on from Airport.

At the time of entry to Australia this person was:

- * (1) Not in possession of any *travel/*identification documentation.
- * (2) In possession of the *photocopied/*attached documentation.
A brief description of the offending documentation follows —
* fraudulent/*falsified/*counterfeit
* passport/*identity card/*other document

Number:

Country in whose name documentation was

issued:

- * (3) In possession of documentation
that has been impounded for return to the appropriate authorities
of the issuing country.
- * (4) In possession of valid
*travel/*identification documentation that since expired and
cannot be renewed.

According to Annex 9 of the ICAO Convention on International Civil Aviation,
the last country in which a passenger previously stayed and most recently
travelled from, is invited to accept *him/*her for re-examination when *he/*she
has been refused admission to another country.

I,, a delegate of the Secretary of the
Department of Immigration and Multicultural Affairs, issue this document
under subsection 274 (3) of the *Migration Act 1958*.

Signature and Official Title:

Date:

Airport:

Country: Australia

Telephone:

Telex:

Facsimile:

**delete as appropriate*

**WARNING — THIS DOCUMENT IS NOT AN IDENTIFICATION
DOCUMENT**

Schedule 11 Memorandum of Understanding

(subregulation 2.12A (3))

Representatives of the Ministry of Civil Affairs of the People's Republic of China and the Department of Immigration and Ethnic Affairs of Australia met in Beijing from January 20 to 25, 1995 on the issue of recent unauthorised arrivals in Australia of Vietnamese refugees settled in China. The discussions were held in a friendly and cooperative atmosphere.

Being concluding parties to the "1951 Convention Relating to the Status of Refugees" and the "1967 Protocol Relating to the Status of Refugees", both parties observed that since 1979 the Chinese Government has provided effective protection to over 280,000 Vietnamese refugees settled in China, including significant humanitarian assistance such as land, housing, medical care, education and employment. Both parties also noted that the United Nations High Commissioner for Refugees has been closely involved in all matters relating to the refugees, with the active cooperation of the Chinese authorities, both centrally and locally.

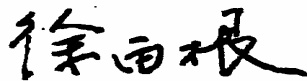
Both parties noted that the recent movement to Australia of some Vietnamese refugees settled in China was unauthorised. Consistent with international practice, both parties expressed their opposition to the unauthorised flow of refugees to third countries from the country of first asylum where they enjoy protection.

Both parties agreed that for the recent and possible future unauthorised arrivals in Australia of Vietnamese refugees settled in China they will, in the spirit of international cooperation and burden sharing and maintaining and further developing the friendly relations between China and Australia, and fulfilling international obligations consistent with international practice, engage in friendly consultations and seek proper settlement of the issue through agreed procedures. To this end, Vietnamese refugees settled in China returned under agreed verification arrangements, will continue to receive the protection of the Government of China.

On this basis both parties reached the following understandings on special arrangements for dealing with current unauthorised arrivals in Australia of Vietnamese refugees settled in China.

1. The Ministry of Civil Affairs agrees to accept those refugees settled in China, subject to verification procedures as agreed between the two parties, and will be responsible for their resettlement. However, this will not constitute a precedent for China in its handling of similar cases with other countries and regions.
2. The Department of Immigration and Ethnic Affairs will provide the Ministry of Civil Affairs with Vietnamese refugee registration forms as agreed between the two parties to facilitate the verification by the Chinese side. The Department of Immigration and Ethnic Affairs will be responsible for the return of the verified Vietnamese refugees to China by air and will meet all associated costs. The refugees will be returned in groups as soon as possible as verification procedures are completed.
3. Both parties agree to keep the UNHCR informed of the outcome of the negotiations and progress in relation to the returns, and seek its assistance if necessary.

Done in duplicate in Beijing on January 25, 1995 in Chinese and English, both texts being equally authentic.



Director-General, Office for Reception
and Settlement of Indo-Chinese
Refugees

For the Ministry of Civil Affairs of the
People's Republic of China



Ambassador to the People's
Republic of China

For the Department of
Immigration and Ethnic Affairs
of Australia

Schedule 12 Exchange of letters

(subregulation 2.12A (3))

Part 1

AMBASSADOR

AUSTRALIAN EMBASSY
BEIJING

18 September 2008

Mr Kang Peng
Director-General
Department of Foreign Affairs
Ministry of Civil Affairs
Beijing
People's Republic of China

Dear Mr Kang

I am writing to seek the renewal of the Memorandum of Understanding of 25 January 1995 between the Department of Immigration and Ethnic Affairs (now the Department of Immigration and Citizenship) and the Ministry of Civil Affairs relating to unauthorised arrivals in Australia of Vietnamese refugees settled in the People's Republic of China.

I note that the Memorandum of Understanding, established with regard to Vietnamese refugees settled in China who have arrived in Australia as unauthorised arrivals after 25 January 1995, expired on 30 June 2008. I note further that the Memorandum of Understanding will come into effect again on the date on which the Government of Australia notifies the Government of the People's Republic of China that it has completed its domestic legislative processes for the entry into effect of the Memorandum of Understanding.

Upon your confirmation of this, this exchange of letters replaces the previous exchange of letters of 17 March 2006, and together with the Memorandum of Understanding constitutes an agreement between our two countries on this subject.

Yours sincerely
Geoff Raby (Dr)

Part 2

H.E. Geoff Raby Dr.
Ambassador to China
Australian Embassy
Beijing

October 7, 2008

Dear Ambassador Raby,

I refer to your letter of 18 September, 2008, and confirm that the Memorandum of Understanding of 25 January 1995, established with regard to Vietnamese refugees settled in China who have arrived Australia as unauthorised arrivals after 25 January 1995, will come into effect again on the date on which the Government of Australia notifies the Government of the People's Republic of China of the completion of its domestic legislative process. I look forward to receiving your letter of notification.

Yours sincerely

Kang Peng
Director-General
Department of Foreign Affairs
Ministry of Civil Affairs
People's Republic of China



Migration Regulations 1994

Statutory Rules 1994 No. 268 as amended

made under the

Migration Act 1958

This compilation was prepared on 1 July 2009
taking into account amendments up to SLI 2009 No. 144

The text of any of those amendments not in force
on that date is appended in the Notes section

**[Note: Regulation 2.12A ceases to be in force at the end of
4 December 2010 — see subsection 91D (4) of the Act]**

This document has been split into seven volumes
Volume 1 contains Parts 1–3 (Rr. 1.01–3.31),
Volume 2 contains Parts 4 and 5 (Rr. 4.01–5.44) and Schedule 1,
Volume 3 contains Schedule 2 (Subclasses 010–415),
Volume 4 contains Schedule 2 (Subclasses 416–801),
Volume 5 contains Schedule 2 (Subclasses 802–995),
Volume 6 contains Schedules 3–12, and
Volume 7 contains the Notes and Tables A and B
Each volume has its own Table of Contents

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

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Notes to the *Migration Regulations 1994*

Note 1

The *Migration Regulations 1994* (in force under the *Migration Act 1958*) as shown in this compilation comprise Statutory Rules 1994 No. 268 amended as indicated in the Tables below.

Note: Regulation 2.12A ceases to be in force at the end of 30 June 2008 — *see* subsection 91D (4) of the Act.

The *Migration Regulations 1994* are modified by Schedules 2 and 3 of Statutory Rules 1996 No. 276 *see* Table B.

The *Migration Regulations 1994* was amended by the *Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Act 2001*. The amendments have been incorporated in this compilation. For application, saving or transitional provisions relating to the amendments *see* Schedule 2 (item 11) of Act No. 128, 2001.

The *Migration Regulations 1994* was amended by the *Migration Legislation Amendment (Contributory Parents Migration Scheme) Act 2003* (No. 5, 2003). The amendments have been incorporated in this compilation.

Information pertaining to application, saving or transitional provisions prior to 11 December 1996 is not included in this compilation. For subsequent information *see* Table A.

Table of Instruments**Table of Instruments**

Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
1994 No. 268	28 July 1994	1 Sept 1994	
1994 No. 280	17 Aug 1994	Part 2 (rr. 3–34): 1 Sept 1994 Part 3 (rr. 35–39): 1 Oct 1994 Remainder: 17 Aug 1994	—
1994 No. 322	19 Sept 1994	19 Sept 1994	—
1994 No. 376	16 Nov 1994	Rr. 39 and 40: 1 Dec 1994 Remainder: 12 Dec 1994	—
1994 No. 452	30 Dec 1994	9 Jan 1995	—
1995 No. 3	27 Jan 1995	27 Jan 1995	—
1995 No. 38	14 Mar 1995	Rr. 2, 4.1, 5.1, 6 and 7: 1 Sept 1994 R. 3: 9 Jan 1995 Rr. 4.2, 4.3, 5.2 and 5.3: 17 Mar 1995 R. 8: 12 Dec 1994 Part 3 (rr. 9–73): 3 Apr 1995 Remainder: 14 Mar 1995	R. 73
1995 No. 117	6 June 1995	3 July 1995	R. 48
1995 No. 134	15 June 1995	3 July 1995	R. 6
1995 No. 268	12 Sept 1995	Part 3 (rr. 5–39) and Part 4 (rr. 40, 41): 1 Nov 1995 Remainder: 12 Sept 1995	Rr. 40 and 41
1995 No. 302	26 Oct 1995	1 Nov 1995	—
1995 No. 411	19 Dec 1995	R. 9: 1 Apr 1996 Rr. 10–12: 1 Feb 1996 Remainder: 19 Dec 1995	—
1996 No. 12	31 Jan 1996	1 Apr 1996	—
1996 No. 75 (a)	5 June 1996	Rr. 10, 12.1 and Schedule 1 (Part 1): 5 June 1996 R. 13.1 and Schedule 2 (Part 1): 1 July 1996 Remainder: 1 Aug 1996	Rr. 19 and 20
1996 No. 76	5 June 1996	1 Aug 1996	R. 41
1996 No. 108	20 June 1996	1 July 1996	—

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Year and number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
1996 No. 121	28 June 1996	1 July 1996	—
1996 No. 135	1 July 1996	1 July 1996	—
1996 No. 198	4 Sept 1996	4 Sept 1996	—
1996 No. 211 (b)	30 Sept 1996	Part 1 (rr. 1, 2), Part 2 (rr. 3–62) and Part 4 (Div. 4.1 [rr. 144, 145]): 1 Oct 1996 Remainder: 1 Nov 1996	Rr. 144–152
1996 No. 276	11 Dec 1996	11 Dec 1996	Part 3 [see Tables A and B]
1997 No. 17	26 Feb 1997	26 Feb 1997	—
1997 No. 64	26 Mar 1997	26 Mar 1997	—
1997 No. 91	1 May 1997	1 May 1997	Rr. 13 and 14 [see Table A]
1997 No. 92	1 May 1997	1 May 1997	—
1997 No. 109	21 May 1997	1 July 1997	—
1997 No. 137	23 June 1997	1 July 1997	—
1997 No. 184	1 July 1997	1 July 1997	—
1997 No. 185	1 July 1997	1 July 1997	—
1997 No. 216	27 Aug 1997	Rr. 6 and 7: 1 Nov 1997 Remainder: 1 Sept 1997	—
1997 No. 263	24 Sept 1997	Part 1 (rr. 1, 2) and Part 2 (rr. 3, 4): 7 July 1997 Part 3 (rr. 5–32) and Part 5 (r. 34): 1 Nov 1997 Remainder: 1 Jan 1998	Part 5 [see Table A]
1997 No. 279	1 Oct 1997	1 Oct 1997	—
1997 No. 288	8 Oct 1997	1 Nov 1997	—
1997 No. 301	31 Oct 1997	1 Nov 1997	—
1997 No. 354	15 Dec 1997	1 Jan 1998	—
1998 No. 36	20 Mar 1998	1 Oct 1997	—
1998 No. 37	20 Mar 1998	21 Mar 1998	—
1998 No. 104 (c)	27 May 1998	Part 1 (rr. 1, 2) and Part 2 (rr. 3–21): 1 July 1998 Remainder: 1 Aug 1998	—
1998 No. 139	25 June 1998	1 July 1998	—
1998 No. 210	1 July 1998	1 July 1998	Rr. 9 and 10 [see Table A]
1998 No. 214	30 June 1998	1 July 1998	—
1998 No. 284	1 Sept 1998	1 Sept 1998	—
1998 No. 285 (d)	1 Sept 1998	1 Nov 1998	—

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Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
1998 No. 304	3 Nov 1998	1 Dec 1998	—
1998 No. 305	3 Nov 1998	1 Dec 1998	—
1998 No. 306	3 Nov 1998	1 Dec 1998	—
1998 No. 322	10 Dec 1998	10 Dec 1998	—
1999 No. 8	11 Feb 1999	1 Mar 1999	—
1999 No. 58	15 Apr 1999	15 April 1999	—
1999 No. 64	22 Apr 1999	1 June 1999	—
1999 No. 68	7 May 1999	Rr. 1–5 and Schedule 1: 1 June 1999 Remainder: 1 July 1999	Rr. 4–6 [see Table A]
as amended by			
1999 No. 81	31 May 1999	Schedule 1: (see 1999 No. 81 below)	—
1999 No. 132	30 June 1999	Schedule 2: (see 1999 No. 132 below)	—
1999 No. 76	19 May 1999	1 July 1999	R. 4 [see Table A]
as amended by			
1999 No. 81	31 May 1999	Schedule 2: (see 1999 No. 81 below)	—
1999 No. 132	30 June 1999	Schedule 3: (see 1999 No. 132 below)	—
1999 No. 81	31 May 1999	Rr. 1–4, Schedules 1 and 2: 31 May 1999 Rr. 6 (2), (3) and Schedule 4: 1 July 1999 Schedules 5 and 6: 1 Sept 1999 Remainder: 1 June 1999	R. 6 [see Table A]
as amended by			
1999 No. 132	30 June 1999	Schedule 4: (see 1999 No. 132 below)	—
1999 No. 82	31 May 1999	1 June 1999	—
1999 No. 132	30 June 1999	R. 3 (1) and Schedule 1: 1 July 1999 R. 3 (2) and Schedule 5: 1 Sept 1999 Remainder: 30 June 1999	—
1999 No. 155	22 July 1999	22 July 1999	R. 4 [see Table A]

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Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
1999 No. 198	8 Sept 1999	8 Sept 1999	—
1999 No. 220	23 Sept 1999	Rr. 4 (1), (2), 5 and Schedule 1: 1 Nov 1999 Remainder: 23 Sept 1999	Rr. 4 and 5 [see Table A]
as amended by			
1999 No. 259	27 Oct 1999	Schedule 1: (see 1999 No. 259 below)	—
1999 No. 321	15 Dec 1999	Schedule 2: (see 1999 No. 321 below)	—
1999 No. 243	20 Oct 1999	20 Oct 1999	R. 4 [see Table A]
1999 No. 259	27 Oct 1999	Rr. 1–3 and Schedule 1: 31 Oct 1999 Remainder: 1 Nov 1999	R. 5 (am. by 2000 No. 259, Sch. 1; 2002 No. 213, Sch. 2) [see Table A]
as amended by			
2000 No. 259 (e)	15 Sept 2000	Schedule 1: 1 Nov 2000	—
2002 No. 213	12 Sept 2002	Schedule 2: (see 2002 No. 213 below)	—
1999 No. 260	27 Oct 1999	1 Nov 1999	—
as amended by			
1999 No. 321	15 Dec 1999	Schedule 3: (see 1999 No. 321 below)	—
1999 No. 321	15 Dec 1999	Rr. 3 (1), 6 and Schedule 1: 20 Oct 1999 Rr. 4, 5 and Schedules 2 and 3: 31 Oct 1999 R. 3 (2) and Schedule 4: 1 Nov 1999 R. 3 (3) and Schedule 5: 16 Dec 1999 Remainder: 15 Dec 1999	R. 6 [see Table A]
1999 No. 325	16 Dec 1999	16 Dec 1999	R. 4 [see Table A]
2000 No. 52	13 Apr 2000	13 Apr 2000	—
2000 No. 62	28 Apr 2000	Rr. 1–3 and Schedule 1: 1 Nov 1999 Schedule 2: 28 Apr 2000 Remainder: 1 July 2000	R. 4 [see Table A]
2000 No. 108	15 June 2000	Schedule 2: 1 July 2000 Remainder: 28 Apr 2000	—

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Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
2000 No. 192	25 July 2000	25 July 2000	—
2000 No. 259 (e)	15 Sept 2000	Rr. 1, 2, 5 (1) and Schedule 3: 1 Nov 1999 Remainder: 1 Nov 2000	R. 6 (am. by 2000 No. 284, Sch. 1) [see Table A]
as amended by			
2000 No. 284	26 Oct 2000	Schedule 1: (see 2000 No. 284 below)	—
2000 No. 284	26 Oct 2000	Rr. 1–3 and Schedule 1: 31 Oct 2000 Remainder: 1 Nov 2000	R. 5 [see Table A]
2000 No. 335	14 Dec 2000	Rr. 1–3 and Schedule 1: 1 Nov 2000 Remainder: 14 Dec 2000	R. 4 [see Table A]
2001 No. 27	27 Feb 2001	Rr. 1–3 (1), 4 and Schedule 1: 27 Feb 2001 Remainder: 1 Mar 2001	R. 4 [see Table A]
2001 No. 47	16 Mar 2001	1 Apr 2001	R. 4 [see Table A]
2001 No. 86	10 May 2001	Rr. 1–3 (1) and Schedule 1: 1 Sept 1994 Remainder: 1 July 2001	R. 4 [see Table A]
2001 No. 142	20 June 2001	1 July 2001	R. 4 [see Table A]
2001 No. 162	29 June 2001	1 July 2001	R. 4 [see Table A]
2001 No. 206	2 Aug 2001	10 Aug 2001 (see r. 2 and <i>Gazette</i> , 2001 No. GN31)	R. 4 [see Table A]
2001 No. 239	5 Sept 2001	1 Nov 2001	R. 4 [see Table A]
2001 No. 246	14 Sept 2001	19 Sept 2001	R. 4 [see Table A]
2001 No. 283	5 Oct 2001	5 Oct 2001	R. 4 [see Table A]
2001 No. 284	5 Oct 2001	5 Oct 2001	—
2001 No. 285	5 Oct 2001	Schedule 2: 1 Nov 2001 Remainder: 5 Oct 2001	R. 4 [see Table A]
2001 No. 291	28 Sept 2001	1 Oct 2001 (see r. 2 and <i>Gazette</i> , 2001 No. S406)	—
2001 No. 344	21 Dec 2001	28 Jan 2002	R. 4 [see Table A]

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Year and number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
2002 No. 10	21 Feb 2002	Rr. 1–4 and Schedule 1: 1 Nov 2001 Remainder: 1 Mar 2002	Rr. 4 and 5 [see Table A]
2002 No. 86	9 May 2002	Rr. 1–4 and Schedule 1: 9 May 2002 Remainder: 1 July 2002	Rr. 4 and 5 [see Table A]
2002 No. 121	14 June 2002	1 July 2002	R. 4 [see Table A]
2002 No. 129 (f)	7 June 2002	7 June 2002	—
2002 No. 213	12 Sept 2002	1 Nov 2002	R. 5 [see Table A]
2002 No. 230	26 Sept 2002	1 Nov 2002	R. 4 [see Table A]
2002 No. 299	4 Dec 2002	Rr. 1–4 and Schedule 1: 9 Dec 2002 Remainder: 5 Jan 2003	R. 4 [see Table A]
2002 No. 323	14 Dec 2002	14 Dec 2002	—
2002 No. 347	20 Dec 2002	20 Dec 2002	—
2002 No. 348	20 Dec 2002	Rr. 1–3 and Schedule 1: 5 Jan 2003 Remainder: 1 Mar 2003	R. 4 [see Table A]
2002 No. 354	20 Dec 2002	20 Dec 2002	—
2003 No. 57	14 Apr 2003	14 Apr 2003	—
2003 No. 94	22 May 2003	Rr. 1–4 and Schedule 1: 22 May 2003 Remainder: 1 July 2003	Rr. 4 and 5 [see Table A]
2003 No. 106	29 May 2003	Rr. 1–4 and Schedule 1: 29 May 2003 Remainder: 1 July 2003	R. 4 [see Table A]
2003 No. 122	19 June 2003	1 July 2003	R. 4 [see Table A]
2003 No. 154	26 June 2003	Rr. 1–4: 26 June 2003 Remainder: 1 July 2003	R. 4 [see Table A]
2003 No. 224 (g)	28 Aug 2003	28 Aug 2003	—
2003 No. 239	18 Sept 2003	1 Nov 2003	R. 4 [see Table A]
2003 No. 283 (h)	4 Nov 2003	4 Nov 2003	—
2003 No. 296	27 Nov 2003	1 Dec 2003	R. 4 [see Table A]
as amended by			
2003 No. 363	23 Oct 2003	Schedule 10: (see 2003 No. 363 below)	—

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Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
2003 No. 362	23 Dec 2003	1 Jan 2004	R. 4 [see Table A]
2003 No. 363	23 Dec 2003	1 Jan 2004	R. 5 [see Table A]
2004 No. 21	26 Feb 2004	1 Mar 2004	R. 4 [see Table A]
2004 No. 93	20 May 2004	Rr. 1–4 and Schedule 6: 1 Nov 2003 Remainder: 1 July 2004	Rr. 4 and 5 [see Table A]
2004 No. 131	18 June 2004	1 July 2004	R. 4 [see Table A]
2004 No. 191	1 July 2004	1 July 2004	—
2004 No. 192	1 July 2004	1 July 2004	—
2004 No. 223	22 July 2004	Rr. 1–5 and Schedule 1: 22 July 2004 Remainder: 1 Sept 2004	Rr. 4 and 5 [see Table A]
2004 No. 269	25 Aug 2004	27 Aug 2004	R. 4 [see Table A]
2004 No. 270	25 Aug 2004	27 Aug 2004	—
2004 No. 390	23 Dec 2004	Rr. 1–4 and Schedule 7: 1 July 2004 Schedules 2 and 8: 23 Dec 2004 Remainder: 2 Apr 2005	R. 4 [see Table A]
2005 No. 54	29 Mar 2005 (see F2005L00762)	2 Apr 2005	R. 4 [see Table A]
2005 No. 76	11 May 2005 (see F2005L00858)	11 May 2005	—
2005 No. 133	20 June 2005 (see F2005L01493)	1 July 2005	R. 4 [see Table A]
2005 No. 134	20 June 2005 (see F2005L01502)	1 July 2005	R. 5 [see Table A]
2005 No. 147	16 June 2005 (see F2005L01548)	16 June 2005	—
2005 No. 171	22 July 2005 (see F2005L02018)	22 July 2005	—
2005 No. 172	25 July 2005 (see F2005L02019)	26 July 2005	—
2005 No. 221	7 Oct 2005 (see F2005L03037)	Rr. 1–11 and Schedule 1: 27 Aug 2004 Schedules 2–5: 8 Oct 2005 Remainder: 1 Nov 2005	Rr. 4–11 [see Table A]

Table of Instruments

Year and number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
2005 No. 240	24 Oct 2005 (see F2005L03190)	1 Nov 2005	Rr. 4–12 [see Table A]
2005 No. 275	24 Nov 2005 (see F2005L03683)	1 Dec 2005	Rr. 4–6 [see Table A]
2005 No. 317	19 Dec 2005 (see F2005L03892)	20 Dec 2005	—
2005 No. 339	19 Dec 2005 (see F2005L03909)	20 Dec 2005	R. 4 [see Table A]
2006 No. 10	16 Feb 2006 (see F2006L00471)	1 Mar 2006	R. 4 [see Table A]
2006 No. 123	5 June 2006 (see F2006L01648)	1 July 2006	R. 4 [see Table A]
2006 No. 133	19 June 2006 (see F2006L01781)	1 July 2006	R. 4 [see Table A]
2006 No. 159	26 June 2006 (see F2006L01876)	1 July 2006	R. 4 [see Table A]
2006 No. 238	11 Sept 2006 (see F2006L02979)	1 Oct 2006	R. 4 [see Table A]
2006 No. 250	25 Sept 2006 (see F2006L03096)	1 Oct 2006	Rr. 4, 5 [see Table A]
2006 No. 354	15 Dec 2006 (see F2006L04033)	1 Jan 2007	R. 4 [see Table A]
2007 No. 69	2 Apr 2007 (see F2007L00811)	Rr. 1–6 and Schedules 1–4: 23 Apr 2007 Remainder: 1 July 2007	Rr. 3–5 and 7 [see Table A]
2007 No. 87	13 Apr 2007 (see F2007L00989)	13 Apr 2007	R. 4 [see Table A]
2007 No. 129	24 May 2007 (see F2007L01460)	24 May 2007	R. 4 [see Table A]
2007 No. 166	26 June 2007 (see F2007L01798)	1 July 2007	Rr. 3–6 [see Table A]
2007 No. 190	29 June 2007 (see F2007L01980)	1 July 2007	Rr. 3–8 [see Table A]
2007 No. 191	29 June 2007 (see F2007L01896)	Rr. 1–3 and Schedule 1: 1 July 2007 Remainder: 1 Jan 2008	Rr. 3 and 4 [see Table A]
2007 No. 257	24 Aug 2007 (see F2007L02644)	Rr. 1–3 and Schedule 1: 1 Sept 2007 Remainder: 1 Jan 2008	Rr. 3 and 4 [see Table A]
2007 No. 272	10 Sept 2007 (see F2007L03559)	10 Sept 2007	R. 4 [see Table A]

Table of Instruments

Year and number	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
2007 No. 273	10 Sept 2007 (see F2007L03557)	10 Sept 2007	R. 4 [see Table A]
2007 No. 274	10 Sept 2007 (see F2007L03560)	10 Sept 2007	R. 4 [see Table A]
2007 No. 275	30 Sept 2007 (see F2007L03558)	1 Oct 2007	R. 4 [see Table A]
2007 No. 314	3 Oct 2007 (see F2007L03859)	15 Oct 2007	R. 4 [see Table A]
2007 No. 315	3 Oct 2007 (see F2007L03853)	15 Oct 2007	Rr. 3–7 [see Table A]
2007 No. 356	19 Oct 2007 (see F2007L04099)	Rr. 1–3 and Schedule 1: 10 Sept 2007 R. 4 and Schedule 2: 22 Oct 2007 R. 5 and Schedule 3: 31 Oct 2007 Remainder: 1 Jan 2008	Rr. 3–6 [see Table A]
2008 No. 33	9 Apr 2008 (see F2008L00942)	9 Apr 2008	R. 4 [see Table A]
2008 No. 56	14 Apr 2008 (see F2008L01025)	26 Apr 2008	Rr. 3–5 [see Table A]
2008 No. 91	3 June 2008 (see F2008L01848)	1 July 2008	R. 3 [see Table A]
2008 No. 166	8 Aug 2008 (see F2008L03026)	9 Aug 2008	R. 3–6 [see Table A]
2008 No. 167	8 Aug 2008 (see F2008L03027)	9 Aug 2008	R. 4 [see Table A]
2008 No. 168	9 Aug 2008 (see F2008L03024)	9 Aug 2008	R. 4 [see Table A]
2008 No. 189	18 Sept 2008 (see F2008L03476)	Rr. 1–3 and Schedule 1: 9 Aug 2008 R. 4 and Schedule 2: 19 Sept 2008 R. 5 and Schedule 3: 27 Oct 2008	Rr. 3–5 [see Table A]
2008 No. 205	8 Oct 2008 (see F2008L03542)	27 Oct 2008	Rr. 4–7 [see Table A]
2008 No. 237	1 Dec 2008 (see F2008L04492)	Rr. 1–3 and Schedule 1: 9 Aug 2008 Remainder: 5 Dec 2008	Rr. 3–6 [see Table A]
2009 No. 7	9 Feb 2009 (see F2009L00267)	Rr. 1–3 and Schedule 1: 15 Feb 2009 R. 4 and Schedule 2: 15 Mar 2009	R. 4 [see Table A]

Table of Instruments

Year and number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
2009 No. 22	2 Mar 2009 (see F2009L00689)	Rr. 1–3 and Schedule 1: 15 Mar 2009 R. 4 and Schedule 2: 28 Mar 2009	R. 4 [see Table A]
2009 No. 42	18 Mar 2009 (see F2009L01048)	28 Mar 2009	R. 3 [see Table A]
2009 No. 67	9 Apr 2009 (see F2009L01253)	14 Apr 2009	R. 3 [see Table A]
2009 No. 84	14 May 2009 (see F2009L01746)	15 May 2009	R. 4 [see Table A]
2009 No. 115	19 June 2009 (see F2009L02373)	(see r. 2 and Note 2)	R. 3 [see Table A]
2009 No. 116	22 June 2009 (see F2009L02376)	Rr. 1–3 and Schedule 1: 27 June 2009 Remainder: 1 July 2009	Rr. 3–12 [see Table A]
2009 No. 143	24 June 2009 (see F2009L02518)	1 July 2009	R. 4 [see Table A]
2009 No. 144	25 June 2009 (see F2009L02512)	Rr. 1–4 and Schedules 1 and 2: 1 July 2009 R. 5 and Schedule 3: (see 2 (b) and Note 3)	R. 3–5 [see Table A]

- (a) Regulations 7 and 8 of Statutory Rules 1996 No. 75 were disallowed by the Senate on 11 September 1996.
- (b) Regulations 4, 10, 11, 13.3, 14–37, 47–49, 51, 53–55, 74, 77.16, 77.19, 78, 85, 119 and 144 of Statutory Rules 1996 No. 211 were disallowed by the Senate on 7 November 1996.
- (c) Regulation 15 of Statutory Rules 1998 No. 104 was disallowed by the Senate on 2 July 1998.
- (d) Statutory Rules 1998 No. 285 were disallowed by the Senate on 31 March 1999.
- (e) Statutory Rules 2000 No. 259 were made under the *Migration Act 1958* and the *Migration Reform Act 1992*.
Item [4108] of Schedule 4 to Statutory Rules 2000 No. 259 was disallowed by the Senate on 1 November 2000.
- (f) Statutory Rules 2002 No. 129 were disallowed by the Senate on 19 June 2002.
- (g) Statutory Rules 2003 No. 224 were disallowed by the Senate on 9 October 2003.
- (h) Statutory Rules 2003 No. 283 were disallowed by the Senate on 24 November 2003.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
Division 1.1	
R. 1.01	am. 1998 No. 322
Division 1.2	
Note to Div. 1.2	am. 2005 No. 240
Heading to r. 1.03.....	rs. 1999 No. 68
R. 1.03	am. 1994 Nos. 280, 322 and 376; 1995 Nos. 38, 117, 268 and 411; 1996 Nos. 12, 75, 211 and 276; 1997 Nos. 64, 109, 137 and 263; 1998 Nos. 104, 139, 214, 284, 304, 305 and 306; 1999 Nos. 8, 68, 76, 81, 259 and 321; 2000 Nos. 62, 259 and 284; 2001 Nos. 27, 86, 142, 162 and 344; 2002 Nos. 10, 86 and 213; Act No. 5, 2003; 2003 Nos. 154, 239, 296 and 363; 2004 Nos. 93, 131, 191 and 269; 2005 Nos. 54, 133 and 240; 2006 Nos. 10, 123, 159 and 250; 2007 No. 69, 191, 257 and 272; 2008 Nos. 56, 167, 189, 205 and 237; 2009 Nos. 84 and 144
Note 2 to r. 1.03	rs. 2005 No. 133
R. 1.04A	ad. 1999 No. 8 am. 2001 No. 162; 2004 No. 93
R. 1.04B	ad. 2001 No. 162
R. 1.05	am. 1994 No. 376; 2001 No. 239; 2009 No. 144
R. 1.05A	ad. 1999 No. 259 am. 1999 No. 321; 2000 No. 259; 2002 No. 10
R. 1.08	am. 1996 No. 76; 1999 Nos. 81 and 259
R. 1.09A	ad. 1995 No. 117 am. 1996 No. 211; 1997 No. 92; 1999 No. 259; 2007 No. 257 rs. 2009 No. 144
R. 1.11	am. 1994 No. 376 am. 2009 No. 144
R. 1.11A	ad. 1997 No. 109 am. 2002 No. 348; 2009 No. 144
R. 1.11B	ad. 1998 No. 214
R. 1.11C	ad. 2008 No. 205
R. 1.12	am. 1994 No. 376; 2001 No. 162; Act No. 5, 2003; 2003 Nos. 94, 239 and 296; 2004 Nos. 131 and 390; 2007 No. 257; 2009 Nos. 42 and 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1.12AA.....	ad. 1996 No. 211 rep. 1996 No. 276 ad. 1997 No. 137 am. 2003 No. 363; 2009 Nos. 116 and 144
R. 1.12A.....	ad. 1994 No. 322
R. 1.13.....	am. 1995 No. 268; 1996 No. 211; 1997 No. 263; 1999 No. 68 rs. 2000 No. 259
R. 1.14.....	am. 1998 No. 104; 2002 No. 86; 2009 No. 144
R. 14A.....	ad. 2009 No. 144
R. 1.15.....	rs. 1999 No. 259; 2005 No. 221 am. 2009 No. 144
R. 1.15AA.....	ad. 1998 No. 306 am. 1999 No. 220; 2007 No. 69
R. 1.15A.....	ad. 1994 No. 376 am. 1996 No. 211; 1997 Nos. 92 and 279; 1999 No. 259; 2000 No. 62; 2003 No. 296; 2005 No. 133; 2007 No. 257; 2008 No. 166 rs. 2009 No. 144
Note to r. 1.15A (2A).....	ad. 1997 No. 92
R. 1.15B.....	ad. 1997 No. 263 rs. 1999 No. 76; 2006 No. 250 am. 2007 No. 257
R. 1.15C.....	ad. 2007 No. 257
R. 1.15D.....	ad. 2007 No. 257
R. 1.15E.....	ad. 2007 No. 257 rs. 2009 No. 144
Heading to r. 1.15F.....	rs. 2009 No. 84
R. 1.15F.....	ad. 2007 No. 257 am. 2008 No. 56; 2009 No. 84
Note to r. 1.15F (1).....	ad. 2009 No. 84
R. 1.15G.....	ad. 2008 No. 189
Division 1.3	
R. 1.16AA.....	ad. 1995 No. 268
R. 1.16A.....	ad. 1994 No. 280
R. 1.16B.....	ad. 2003 No. 239
R. 1.18.....	rs. 2001 No. 162 am. 2009 No. 116
R. 1.19.....	am. 1999 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 1.4	
R. 1.20	am. 1995 Nos. 38 and 268; 1996 No. 211; 1997 Nos. 263 and 279; 1999 Nos. 68 and 259; 2000 No. 259; 2002 Nos. 86, 230 and 348; 2003 No. 154; 2004 Nos. 131 and 269; 2008 Nos. 166, 168 and 189
R. 120AA.....	ad. 2008 No. 166
Division 1.4A	
Div. 1.4A	ad. 1996 No. 76
R. 1.20A	ad. 1996 No. 76 am. 2000 No. 62
R. 1.20B	ad. 1996 No. 76 am. 2001 No. 162; 2003 No. 154; 2004 No. 131; 2006 No. 123; 2009 No. 144
R. 1.20BA.....	ad. 2004 No. 131 am. 2006 No. 123; 2009 No. 144
R. 1.20C.....	ad. 1996 No. 76 am. 1997 No. 137; 1998 No. 104; 1999 No. 81; 2001 No. 47; 2002 Nos. 121 and 213 rs. 2003 No. 154 am. 2004 Nos. 93, 131, 192 and 390; 2005 No. 134; 2006 No. 159; 2007 Nos. 166 and 275; 2008 No. 91; 2009 No. 116
Note to r. 1.20C (1)	rs. 2001 No. 162
R. 1.20CA	ad. 2003 No. 154
R. 1.20CB	ad. 2004 No. 131 am. 2005 No. 221
R. 1.20CC	ad. 2004 No. 131
R. 1.20D.....	ad. 1996 No. 76 am. 2000 No. 62; 2001 No. 162; 2002 No. 86 rs. 2003 No. 154 am. 2004 Nos. 131 and 390; 2007 No. 190; 2009 No. 116
Note to r. 1.20D (2B)	ad. 2007 No. 273
R. 1.20DA	ad. 2003 No. 154 am. 2004 Nos. 131 and 390; 2007 No. 190
Note to r. 1.20DA (2B).....	ad. 2007 No. 273
R. 1.20DB	ad. 2004 No. 131
R. 1.20E	ad. 1996 No. 76 am. 1997 No. 137; 1998 No. 104; 1999 No. 81; 2001 Nos. 47 and 162; 2002 No. 121 rep. 2003 No. 154 ad. 2004 No. 131

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1.20F	ad. 1996 No. 76 am. 1999 No. 220 rs. 2000 No. 62; 2003 No. 154 am. 2004 No. 390
R. 1.20G	ad. 1996 No. 76 am. 1997 No. 137; 1999 No. 81; 2001 Nos. 47 and 162; 2002 No. 121; 2003 Nos. 106 and 154; 2004 Nos. 93, 192 and 390; 2005 No. 134; 2006 No. 159; 2007 Nos. 166, 273 and 275; 2008 No. 91; 2009 No. 116
R. 1.20GA	ad. 2002 No. 213 am. 2002 No. 299; 2003 Nos. 106 and 154; 2004 Nos. 192 and 390; 2005 No. 134; 2006 Nos. 133 and 159; 2007 Nos. 166, 273 and 275; 2008 No. 91; 2009 No. 116
R. 1.20H	ad. 1996 No. 76 rs. 2001 No. 162 am. 2002 No. 213; 2003 No. 154; 2004 Nos. 93 and 390; 2007 Nos. 190 and 273
Note to r. 1.20H (1B)	ad. 2007 No. 273
R. 1.20HA	ad. 2004 No. 131
R. 1.20HB	ad. 2004 No. 131
R. 1.20HC	ad. 2004 No. 131 am. 2006 No. 123; 2009 No. 144
R. 1.20HD	ad. 2004 No. 131
R. 1.20I	ad. 1996 No. 76
R. 1.20IA	ad. 2004 No. 131 am. 2005 No. 240
Division 1.4B	
Heading to Div. 1.4B	rs. 2000 No. 62
Div. 1.4B	ad. 1996 No. 211
Heading to r. 1.20J	rs. 2002 No. 86; 2009 No. 144
R. 1.20J	ad. 1996 No. 211 am. 1997 Nos. 109 and 354; 1998 No. 304; 1999 No. 259; 2002 No. 86; 2005 No. 134; 2007 No. 315; 2009 No. 144
Heading to r. 1.20K	rs. 2002 No. 86
R. 1.20K	ad. 2000 No. 62 am. 2002 No. 86; 2009 No. 116
R. 1.20KA	ad. 2009 No. 116
Heading to r. 1.20L	rs. 2004 Nos. 21 and 390
R. 1.20L	ad. 2000 No. 62 am. 2004 Nos. 21 and 390; 2005 No. 240; 2006 No. 238; 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1.20LAA.....	ad. 2008 No. 56 am. 2009 No. 144
Division 1.4C	
Div. 1.4C	ad. 2003 No. 154 rs. 2004 No. 131
Subdivision 1.4C.1	
R. 1.20LA	ad. 2004 No. 131
R. 1.20M	ad. 2003 No. 154 rs. 2004 No. 131 am. 2005 No. 240
Subdivision 1.4C.2	
R. 1.20N.....	ad. 2003 No. 154 rs. 2004 No. 131 am. 2005 Nos. 134 and 240; 2006 No. 159; 2007 No. 166; 2008 No. 91; 2009 No. 116
R. 1.20NA	ad. 2004 No. 131 am. 2005 No. 240
R. 1.20O.....	ad. 2003 No. 154 rs. 2004 No. 131 am. 2005 No. 240
Note to r. 1.20O (1) (c)	rs. 2005 No. 240
R. 1.20P.....	ad. 2003 No. 154 rs. 2004 No. 131 am. 2005 Nos. 221 and 240
R. 1.20PA.....	ad. 2004 No. 131
R. 1.20PB.....	ad. 2004 No. 131 am. 2005 No. 240
Subdivision 1.4C.3	
R. 1.20Q.....	ad. 2003 No. 154 rs. 2004 No. 131
R. 1.20R.....	ad. 2003 No. 154 rs. 2004 No. 131 am. 2005 No. 240
R. 1.20S	ad. 2004 No. 131 rs. 2005 No. 240
Subdivision 1.4C.4	
R. 1.20T	ad. 2004 No. 131 am. 2005 No. 240
Division 1.4D	
Div. 1.4D	ad. 2004 No. 269
Subdivision 1.4D.1	
R. 1.20UA	ad. 2004 No. 269
R. 1.20UB	ad. 2004 No. 269

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Subdivision 1.4D.2	
R. 1.20UC	ad. 2004 No. 269
R. 1.20UD	ad. 2004 No. 269
R. 1.20UE	ad. 2004 No. 269
R. 1.20UF.....	ad. 2004 No. 269 am. 2005 No. 221
R. 1.20UG	ad. 2004 No. 269
Subdivision 1.4D.3	
R. 1.20UH	ad. 2004 No. 269
Div. 1.4E	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UI.....	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UJ.....	ad. 2005 No. 240 am. 2007 No. 69 rep. 2007 No. 272
R. 1.20UK	ad. 2005 No. 240 am. 2007 No. 166 rep. 2007 No. 272
R. 1.20UL.....	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UM.....	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UN	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UO	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UP	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UQ	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UR	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20US	ad. 2005 No. 240 rep. 2007 No. 272
R. 1.20UT.....	ad. 2005 No. 240 rep. 2007 No. 272
Division 1.5	
Heading to Div. 1.5.....	rs. 2007 No. 315
Div. 1.5.....	ad. 1995 No. 117
R. 1.21	ad. 1995 No. 117 am. 2005 No. 134; 2007 No. 315

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to r. 1.22.....	rs. 2007 No. 315
R. 1.22	ad. 1995 No. 117 am. 2007 No. 315
Heading to r. 1.23.....	rs. 2007 No. 315
R. 1.23	ad. 1995 No. 117 am. 1997 No. 354; 2005 No. 134; 2007 No. 315; 2009 No. 144
R. 1.24	ad. 1995 No. 117 am. 2005 No. 134; 2007 No. 315
R. 1.25	ad. 1995 No. 117 am. 2007 No. 315; 2009 No. 144
R. 1.26	ad. 1995 No. 117 am. 2007 No. 315
R. 1.27	ad. 1995 No. 117 rs. 2005 No. 134 am. 2007 No. 315
Division 1.6	
Div. 1.6.....	ad. 2001 No. 86
R. 1.30	ad. 2001 No. 86
Division 1.8	
Div. 1.8.....	ad. 2001 No. 162
R. 1.40	ad. 2001 No. 162 am. 2002 No. 10; 2005 No. 240
R. 1.40A.....	ad. 2001 No. 162
R. 1.41	ad. 2001 No. 162 am. 2002 Nos. 213 and 348; 2004 Nos. 131 and 269
R. 1.42	ad. 2001 No. 162 am. 2001 Nos. 283 and 344; 2002 No. 10; 2004 Nos. 131 and 269; 2007 No. 190
R. 1.43	ad. 2001 No. 162 am. 2002 No. 213
R. 1.44	ad. 2001 No. 162 am. 2002 No. 10; 2003 No. 296
Part 2	
Division 2.1	
R. 2.03	am. 2009 No. 144
R. 2.03A.....	ad. 2009 No. 144
R. 2.04	rs. 2007 No. 166
R. 2.05	am. 1999 Nos. 8 and 259; 2002 Nos. 86, 213 and 348; 2003 Nos. 94 and 363; 2007 No. 257
R. 2.06AAA	ad. 2007 No. 191
R. 2.06AA.....	ad. 2005 No. 317

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 2.2	
R. 2.06A	ad. 1995 No. 38 rep. 1997 No. 109 ad. 2000 No. 62
R. 2.07	am. 1996 No. 211; 1997 No. 91; 2002 No. 86
R. 2.07A	ad. 1994 No. 376 am. 1995 Nos. 38 and 268 rep. 1997 No. 91 ad. 1999 No. 259
Note to r. 2.07A	ad. 2005 No. 76
R. 2.07AA	ad. 1995 No. 117 am. 1995 No. 268; 1996 No. 76; 1998 No. 304; 1999 No. 68; 2004 No. 93; 2005 No. 133
R. 2.07AB	ad. 1996 No. 75 am. 1997 No. 216; 1998 No. 214; 1999 No. 76; 2004 No. 93; 2008 No. 205
Heading to r. 2.07AC	rs. 2000 No. 192
R. 2.07AC	ad. 1999 No. 58 am. 1999 No. 198; 2000 No. 192
R. 2.07AD	ad. 1999 No. 68 rep. 2002 No. 86
R. 2.07AE	ad. 1999 No. 260
Heading to r. 2.07AF	rs. 2003 No. 363
R. 2.07AF	ad. 2001 No. 162 am. 2001 Nos. 285 and 344; 2003 No. 363; 2005 No. 221
Note to r. 2.07AF (5)	am. 2005 No. 221
Heading to r. 2.07AG	rs. 2002 Nos. 213 and 348
R. 2.07AG	ad. 2002 No. 86 am. Act No. 5, 2003; 2003 No. 239; 2005 No. 133 rs. 2007 No. 257
R. 2.07AH	ad. 2002 No. 348
R. 2.07AI	ad. 2003 No. 239 am. 2007 No. 274
R. 2.07AJ	ad. 2003 No. 363 rep. 2009 No. 116
R. 2.07AK	ad. 2003 No. 363 am. 2009 No. 116
R. 2.07AL	ad. 2004 No. 93
R. 2.07AM	ad. 2004 No. 223
R. 2.07AN	ad. 2004 No. 269 rep. 2008 No. 168
R. 2.07AO	ad. 2004 No. 269 am. 2005 Nos. 133 and 240; 2007 No. 272; 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 2.07AP.....	ad. 2007 No. 191 am. 2009 No. 144
R. 2.07AQ	ad. 2008 No. 168
R. 2.07AR	ad. 2008 No. 189
R. 2.08	am. 2004 No. 93
Note to r. 2.08	ad. 2004 No. 93
R. 2.08AA.....	ad. 2004 No. 93
R. 2.08AB.....	ad. 2004 No. 270 am. 2009 No. 116
R. 2.08AC	ad. 2004 No. 270 am. 2009 No. 116
Heading to r. 2.08A	rs. 2007 No. 257
R. 2.08A	ad. 1996 No. 211 am. 1997 No. 279; 2001 No. 162; Act No. 5, 2003; 2007 No. 257; 2008 No. 168; 2009 No. 144
Note to r. 2.08A (2A)	ad. 2004 No. 93
Heading to r. 2.08B	rs. 2007 No. 257
R. 2.08B	ad. 1996 No. 211 am. 1996 No. 211; 1997 Nos. 279 and 301; 1999 No. 259; 2002 Nos. 230, 299 and 348; 2004 No. 131; 2007 No. 257; 2009 No. 144
R. 2.08BA.....	ad. 1997 No. 279
R. 2.08C.....	ad. 1996 No. 211 rs. 1999 No. 76 (as am. by 1999 No. 132); 2002 No. 213 am. 2003 No. 239; 2005 No. 221; 2006 No. 250
Heading to r. 2.08CA.....	rs. 2001 No. 162
R. 2.08CA	ad. 2001 No. 27
R. 2.08CB	ad. 2001 No. 162 rs. 2006 No. 250
R. 2.08CC	ad. 2006 No. 250
R. 2.08D.....	ad. 1997 No. 184 rs. 1999 No. 76 am. 2006 No. 159
Note to r. 2.08D (2)	rs. 2001 No. 206
R. 2.08DA	ad. 2004 No. 131
R. 2.08E	ad. 1999 No. 259 am. 2002 No. 86
R. 2.08F	ad. 2002 No. 213 rep. 2008 No. 168
R. 2.08G.....	ad. 2002 No. 299
R. 2.09	rep. 1994 No. 280 ad. 1996 No. 12 am. 1996 No. 211

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 2.10	am. 1994 No. 376; 1995 Nos. 38 and 268; 1996 Nos. 12, 75 and 76; 1997 No. 216; 1998 No. 304; 1999 No. 68; 1999 No. 68 (as rep. by 1999 No. 132); 1999 No. 76 (as rep. by 1999 No. 132); 2001 Nos. 162 and 344; 2004 No. 93
Note to r. 2.10 (4)	ad. 2001 No. 162
R. 2.10AA	ad. 2002 No. 347 am. 2004 No. 93
Heading to r. 2.10A	rs. 2003 No. 362
R. 2.10A	ad. 2000 No. 62
R. 2.10B	ad. 2003 No. 362
R. 2.10C	ad. 2005 No. 133
Heading to r. 2.11	rs. 2005 No. 240
R. 2.11	am. 1995 No. 38; 1996 No. 211; 1997 No. 91; 2000 No. 259; 2005 No. 240; 2009 No. 144
R. 2.12	am. 1994 No. 280; 1995 Nos. 38 and 411; 1997 No. 279; 1998 No. 37; 1999 Nos. 81, 259 and 321; 2000 No. 62; 2001 No. 239; 2003 No. 362; 2004 No. 269; 2005 Nos. 76, 134 and 240; 2008 No. 168
Note to r. 2.12 (1)	ad. 2005 No. 240
R. 2.12AA	ad. 2005 No. 76
R. 2.12A	ad. 1995 No. 3 am. 1996 No. 135 rep. 1997 No. 64 ad. 2000 No. 62 rs. 2002 No. 86; 2004 No. 191; 2006 No. 123; 2008 No. 237
R. 2.12B	ad. 1996 No. 135 rep. 1998 No. 104
Division 2.2AA	
Div. 2.2AA	ad. 2004 No. 269
R. 2.12BB	ad. 2004 No. 269
R. 2.12BC	ad. 2004 No. 269
R. 2.12BD	ad. 2004 No. 269
R. 2.12BE	ad. 2004 No. 269
R. 2.12BF	ad. 2004 No. 269 am. 2005 Nos. 133 and 240
Division 2.2A	
Div. 2.2A	ad. 1997 No. 91
R. 2.12BA	ad. 1998 No. 104 rep. 2000 No. 62
R. 2.12C	ad. 1997 No. 91
Note to r. 2.12C	rs. 2000 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 2.12D	ad. 1997 No. 91 am. 1997 No. 109
Note to r. 2.12D	ad. 1997 No. 109 rs. 2001 No. 206
R. 2.12E	ad. 1997 No. 91
R. 2.12F	ad. 1997 No. 91 rs. 2000 No. 259 am. 2005 No. 133; 2007 Nos. 272, 273 and 356
R. 2.12G	ad. 1997 No. 91
R. 2.12H	ad. 1997 No. 91 rs. 2000 No. 259
R. 2.12I	ad. 1997 No. 91 am. 1997 No. 137 rs. 2000 No. 259
R. 2.12J	ad. 1998 No. 304 rs. 2000 No. 259
R. 2.12JA	ad. 2001 No. 162 rs. 2004 No. 390
R. 2.12K	ad. 2000 No. 259
Division 2.3	
R. 2.13	am. 1996 Nos. 12 and 75; 2000 No. 62; 2001 No. 162; 2006 No. 238; 2008 No. 205
R. 2.15	am. 1994 No. 280; 1995 Nos. 38 and 268; 1996 No. 76; 2005 No. 133; 2008 No. 205
Note to r. 2.15	ad. 1997 No. 109 rs. 2001 No. 206
R. 2.16	am. 1997 Nos. 109 and 279; 2001 No. 162 rs. 2001 No. 206 am. 2005 No. 134; 2007 No. 190
R. 2.16A	ad. 2001 No. 162 rep. 2001 No. 206
Division 2.4	
R. 2.17	am. 1994 No. 280; 1995 No. 117; 1999 No. 81; 2005 No. 134
R. 2.18	am. 1994 No. 376; 1995 No. 117; 1996 No. 211; 1999 No. 81; 2001 Nos. 47 and 162; 2008 No. 91
R. 2.19	am. 1996 Nos. 12 and 211
Division 2.5	
R. 2.20	am. 1994 No. 280; 1999 Nos. 81 and 321; 2000 No. 62; 2001 No. 86; 2005 Nos. 76, 147, 240 and 275; 2009 Nos. 116 and 144
R. 2.20A	ad. 2005 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 2.20B	ad. 2005 No. 275 am. 2009 No. 116
R. 2.21	am. 1994 No. 280; 1999 No. 81; 2003 No. 362; 2005 No. 76
R. 2.21A	ad. 1999 No. 68 am. 1999 No. 259; 2003 No. 94; 2009 No. 144
R. 2.21B	ad. 2000 No. 62 am. 2001 No. 162; 2005 No. 133; 2009 No. 116
R. 2.22	am. 1995 No. 411; 1996 No. 12; 2000 No. 62; 2001 No. 162
R. 2.23	am. 1999 No. 81
R. 2.24	am. 1994 No. 280; 1999 No. 81; 2003 No. 362
Note to r. 2.24 (2)	rs. 2003 No. 362
Heading to r. 2.25.....	am. 1999 No. 81
R. 2.25	am. 1994 No. 280; 1997 No. 263; 1999 No. 81 rs. 2002 No. 348
Division 2.5A	
Div. 2.5A	ad. 1995 No. 268
R. 2.25A	ad. 1995 No. 268 am. 2001 No. 162
Note to r. 2.25A (1).....	ad. 2001 No. 162 rs. 2005 No. 133
R. 2.25B	ad. 1995 No. 268 rep. 1999 No. 81
Division 2.6	
Heading to r. 2.26.....	rs. 1999 No. 76
R. 2.26	am. 1994 No. 376; 1995 No. 117; 1997 Nos. 137 and 263; 1998 Nos. 104 and 210; 1999 Nos. 68, 76 and 81; 2003 No. 122; 2006 Nos. 159 and 250
Note to r. 2.26 (2).....	ad. 1997 No. 184 rep. 1999 No. 76
Heading to r. 2.26A	rs. 2001 Nos. 27 and 162; 2004 No. 131
R. 2.26A	ad. 1999 No. 76 am. 1999 No. 259; 2001 Nos. 27 and 162; 2002 No. 86; 2003 No. 154; 2004 No. 131; 2005 Nos. 133 and 240; 2006 Nos. 159 and 250; 2009 No. 144
R. 2.26AA.....	ad. 2007 No. 257 am. 2008 No. 56
R. 2.26B	ad. 1999 No. 76 am. 2002 No. 86; 2006 Nos. 159 and 250; 2007 No. 69
R. 2.26C.....	ad. 1999 No. 76 am. 2006 No. 250

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to r. 2.27.....	rs. 1999 No. 76
R. 2.27	rs. 1994 No. 376 am. 1996 No. 211; 2009 No. 144
Heading to r. 2.27A	rs. 2001 Nos. 27 and 162
R. 2.27A	ad. 1999 No. 76 am. 2001 Nos. 27 and 162; 2003 No. 363; 2006 No. 250; 2009 No. 144
R. 2.27B	ad. 1999 No. 76 am. 2001 Nos. 27 and 162; 2004 No. 131; 2006 No. 159 rep. 2007 No. 257
R. 2.27C	ad. 2001 No. 239 rs. 2002 No. 86 am. 2005 No. 240
R. 2.27D	ad. 2007 No. 257
R. 2.29	am. 2001 No. 86 rep. 2002 No. 348
R. 2.29A	ad. 2003 No. 122
R. 2.29B	ad. 2003 No. 122
R. 2.29C	ad. 2003 No. 122
R. 2.29D	ad. 2003 No. 122
R. 2.29E	ad. 2003 No. 122
R. 2.29F	ad. 2003 No. 122
R. 2.29G	ad. 2003 No. 122
R. 2.29H	ad. 2003 No. 122
R. 2.29I	ad. 2003 No. 122
R. 2.29J	ad. 2003 No. 122
R. 2.29K	ad. 2003 No. 122
Division 2.7	
Subdivision 2.7.1	
R. 2.33	am. 1998 Nos. 104 and 210; 1999 No. 321
Subdivision 2.7.2	
Heading to Subdiv. 2.7.2..... of Div. 2.7	rs. 2004 No. 93
R. 2.35	am. 2004 No. 93
R. 2.36	am. Act No. 5, 2003
R. 2.38	am. 1995 No. 117; 1998 Nos. 104 and 210; 1999 No. 321
R. 2.39	am. Act No. 5, 2003

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 2.8	
R. 2.40	am. 1994 No. 280; 1995 Nos. 38, 117, 268 and 411; 1997 No. 263; 1999 Nos. 68 and 81; 2000 No. 62; 2001 No. 162; 2002 No. 213; 2003 No. 239; 2004 No. 93; 2005 No. 133; 2007 No. 191; 2009 No. 144
R. 2.40A	ad. 2007 No. 191 rep. 2007 No. 191
Division 2.9	
Heading to Div. 2.9.....	rs. 1999 No. 64
Subdivision 2.9.1	
R. 2.41	am. 1999 No. 81
Note to r. 2.42	ad. 1998 No. 304 rep. 2001 No. 206
Note 1 to r. 2.42 (2)	ad. 2001 No. 206
Note 2 to r. 2.42 (2)	ad. 2001 No. 206
Subdivision 2.9.2	
R. 2.43	am. 1996 No. 198; 1997 No. 263; 1998 Nos. 104 and 305; 1999 Nos. 76 and 220; 2000 Nos. 62, 259 and 284; 2001 Nos. 162 and 206; 2002 No. 213; 2003 Nos. 122 and 363; 2004 No. 390; 2005 Nos. 133, 221, 240 and 275; 2006 No. 10; 2007 No. 272; 2008 Nos. 189 and 205; 2009 Nos. 116 and 144
R. 2.44	am. 1999 No. 81
Note to r. 2.44	ad. 1998 No. 304 rep. 2001 No. 206
Note 1 to r. 2.44 (3)	ad. 2001 No. 206
Note 2 to r. 2.44 (3)	ad. 2001 No. 206
Note to r. 2.45	ad. 1998 No. 304 rep. 2001 No. 206
Note 1 to r. 2.45	ad. 2001 No. 206
Note 2 to r. 2.45	ad. 2001 No. 206
Note to r. 2.47	ad. 1998 No. 304 rep. 2001 No. 206
Note 1 to r. 2.47	ad. 2001 No. 206
Note 2 to r. 2.47	ad. 2001 No. 206
R. 2.49	am. 1998 No. 304
Note to r. 2.49	ad. 1998 No. 304 rep. 2001 No. 206
Note 1 to r. 2.49	ad. 2001 No. 206
Note 2 to r. 2.49	ad. 2001 No. 206
R. 2.50	ad. 1995 No. 302 am. 2002 No. 348; 2004 No. 93

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 2.50AA.....	ad. 2001 No. 142
Subdivision 2.9.2A	
Subdiv. 2.9.2A.....	ad. 2001 No. 86
R. 2.50A.....	ad. 2001 No. 86
Subdivision 2.9.3	
Subdiv. 2.9.3.....	ad. 1999 No. 64
R. 2.51.....	ad. 1999 No. 64
R. 2.52.....	ad. 1999 No. 64 am. 2000 No. 62
R. 2.53.....	ad. 1999 No. 64 am. 2000 No. 62
Division 2.10	
Heading to Div. 2.10.....	ad. 2001 No. 206
Heading to r. 2.54.....	rs. 2008 No. 237
R. 2.54.....	ad. 1999 No. 64 rs. 2001 No. 206 am. 2008 No. 237
R. 2.55.....	ad. 2001 No. 206 am. 2008 No. 237
Note to r. 2.55 (3).....	ad. 2008 No. 237
Note to r. 2.55 (4).....	ad. 2008 No. 237
Part 3	
Division 3.1	
R. 3.01.....	am. 2007 Nos. 190 and 191; 2008 No. 205; 2009 No. 144
R. 3.02.....	am. 1995 No. 302; 1998 No. 104
R. 3.03.....	am. 1996 No. 75; 1997 No. 64; 2002 No. 348 rs. 2003 No. 94 am. 2003 Nos. 154 and 363; 2004 Nos. 21, 93 and 270; 2005 Nos. 133, 134 and 240; 2007 No. 190; 2008 No. 205
Note to r. 3.03 (1).....	am. 2007 No. 190
Note to r. 3.03 (1B).....	am. 2007 No. 190
R. 3.03AA.....	ad. 2007 No. 191 am. 2007 No. 191; 2009 No. 144
R. 3.03A.....	ad. 2005 No. 134 am. 2007 No. 190
Note to 3.03A.....	rs. 2007 No. 190
R. 3.06A.....	ad. 2008 No. 167
R. 3.08.....	am. 2001 No. 239
R. 3.09.....	am. 1995 No. 268; 2002 No. 299

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 3.10	am. 2003 No. 239; 2006 No. 238
Note to r. 3.10 (4)	ad. 2003 No. 239
R. 3.10A	ad. 2005 No. 133 am. 2009 No. 116
R. 3.11	am. 2001 No. 239
R. 3.12	am. 2001 No. 239
Division 3.2	
R. 3.13A	ad. 2002 No. 348
R. 3.13B	ad. 2003 No. 363
R. 3.13C	ad. 2005 No. 133
R. 3.13D	ad. 2009 No. 7
Heading to r. 3.14	rs. 2002 No. 348
R. 3.14	am. 2001 No. 239
Note to r. 3.14 (1)	rep. 2001 No. 239
R. 3.15	am. 1995 No. 268; 2001 No. 239
R. 3.16	am. 2001 No. 239
R. 3.17	am. 2001 No. 239
Division 3.3	
Div. 3.3	ad. 2004 No. 270
R. 3.19	ad. 2005 No. 221
R. 3.19A	ad. 2005 No. 221 am. 2006 No. 10
R. 3.20	ad. 2004 No. 270
R. 3.21	ad. 2004 No. 270
Division 3.4	
Div. 3.4	ad. 2004 No. 270
R. 3.30	ad. 2004 No. 270 am. 2005 No. 134; 2007 No. 166 rs. 2007 No. 315
R. 3.31	ad. 2004 No. 270
Part 4	
Division 4.1	
Note to Div. 4.1	rs. 1999 No. 68
R. 4.02	am. 1997 Nos. 109 and 185 rs. 1999 No. 68 am. 1999 No. 81; 2000 Nos. 62, 259 and 335; 2001 No. 239; 2003 No. 154; 2004 Nos. 93, 131, 191 and 390; 2005 No. 240; 2007 No. 272; 2008 Nos. 166 and 189
Note to r. 4.02 (2)	ad. 1997 No. 109 rep. 1999 No. 68

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 4.03	am. 1994 No. 376; 1997 No. 109 rep. 1999 No. 68
R. 4.04	am. 1997 No. 109 rep. 1999 No. 68
R. 4.05	am. 1997 Nos. 109 and 185 rep. 1999 No. 68
R. 4.06	rep. 1999 No. 68
R. 4.07	am. 1997 No. 109 rep. 1999 No. 68
R. 4.08	am. 1995 Nos. 38 and 268; 1996 No. 76 rep. 1999 No. 68
Note to r. 4.08	ad. 1997 No. 109 rep. 1999 No. 68
R. 4.09	am. 1994 No. 376 rep. 1999 No. 68
Heading to r. 4.10.....	rs. 1999 No. 68
R. 4.10	am. 1997 Nos. 109, 185 and 263; 1999 No. 68; 2000 No. 335; 2001 Nos. 86 and 239
Note to r. 4.10 (2).....	ad. 1997 No. 109 rep. 1999 No. 68
R. 4.11	am. 1999 No. 68 rs. 2001 No. 239
Heading to r. 4.12.....	rs. 1999 No. 68
R. 4.12	am. 1994 No. 376; 1997 No. 109; 1999 No. 68; 2000 No. 335; 2009 No. 144
Heading to r. 4.13.....	rs. 1999 No. 68
R. 4.13	am. 1997 Nos. 109 and 185; 1999 No. 68; 2000 No. 335
Heading to r. 4.14.....	rs. 1999 No. 68
R. 4.14	am. 1995 No. 268; 1997 Nos. 109 and 185; 1999 No. 68; 2001 No. 239; Act No. 5, 2003
R. 4.15	am. 2000 No. 259; 2002 No. 86
R. 4.17	am. 1994 No. 280 rs. 1999 No. 68 am. 2000 No. 335; 2001 No. 239
Note to r. 4.17 (1).....	ad. 1997 No. 109 rep. 1999 No. 68
Note 1 to r. 4.17 (6).....	rs. 2001 No. 206
Note 2 to r. 4.17 (6).....	rs. 2001 No. 206
R. 4.18	rs. 1999 No. 68 am. 2000 No. 335; 2001 No. 239
Note to r. 4.18 (1).....	ad. 1997 No. 109 rep. 1999 No. 68

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note 1 to r. 4.18 (5)	rs. 2001 No. 206
Note 2 to r. 4.18 (5)	rs. 2001 No. 206
R. 4.18A	ad. 1999 No. 68 am. 2000 No. 335; 2001 No. 239
Note 1 to r. 4.18A (6)	rs. 2001 No. 206
Note 2 to r. 4.18A (6)	rs. 2001 No. 206
R. 4.18B	ad. 1999 No. 68 am. 2000 No. 335; 2001 No. 239
Note 1 to r. 4.18B (5)	rs. 2001 No. 206
Note 2 to r. 4.18B (5)	rs. 2001 No. 206
R. 4.19	am. 1999 No. 81 rs. 2001 No. 206
R. 4.21	rs. 1999 No. 68 am. 2001 No. 239
Note 1 to r. 4.21	rs. 2001 No. 206
Note 2 to r. 4.21	rs. 2001 No. 206
R. 4.22	rep. 1996 No. 75 ad. 1999 No. 68 am. 2002 No. 213; 2006 No. 123
R. 4.23	rs. 1995 No. 38 am. 1999 No. 68; 2000 No. 62; 2004 No. 390; 2005 No. 133; 2009 No. 144
Heading to r. 4.24	rs. 1999 No. 68
R. 4.24	am. 1999 No. 68
R. 4.26	rs. 1999 No. 68
R. 4.27	rs. 1999 No. 68
R. 4.27A	ad. 1999 No. 68 am. 2001 No. 239
Note to r. 4.27A	rep. 2001 No. 206
Note 1 to r. 4.27A	ad. 2001 No. 206
Note 2 to r. 4.27A	ad. 2001 No. 206
Division 4.2	
Subdivision 4.2.2	
R. 4.29	am. 1996 No. 75; 2006 No. 123
R. 4.30	rep. 1997 No. 109 ad. 1999 No. 68
Subdivision 4.2.3	
R. 4.31	am. 1997 Nos. 109 and 185
Note to r. 4.31 (2)	rs. 1997 No. 109; 2001 No. 206
R. 4.31A	ad. 1996 No. 75 am. 1997 No. 109; 1999 No. 321

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 4.31B	ad. 1997 No. 109 am. 1997 No. 185; 1999 Nos. 132 and 259; 2001 Nos. 162 and 206; 2003 No. 122; 2005 No. 134
R. 4.31C	ad. 1997 No. 109
R. 4.33	am. 1999 No. 321; 2001 No. 142
R. 4.35	rs. 1999 No. 68
Note to r. 4.35	ad. 1997 No. 109 rep. 1999 No. 68
Note 1 to r. 4.35 (6)	rs. 2001 No. 206
Note 2 to r. 4.35 (6)	rs. 2001 No. 206
R. 4.35A	ad. 1999 No. 68
Note 1 to r. 4.35A (3)	rs. 2001 No. 206
Note 2 to r. 4.35A (3)	rs. 2001 No. 206
R. 4.35B	ad. 1999 No. 68
Note 1 to r. 4.35B (4)	rs. 2001 No. 206
Note 2 to r. 4.35B (4)	rs. 2001 No. 206
R. 4.35C	ad. 1999 No. 68
Note 1 to r. 4.35C (2)	rs. 2001 No. 206
Note 2 to r. 4.35C (2)	rs. 2001 No. 206
R. 4.35D	ad. 1999 No. 68
Note 1 to r. 4.35D	rs. 2001 No. 206
Note 2 to r. 4.35D	rs. 2001 No. 206
R. 4.35E	ad. 1999 No. 68
Note to r. 4.35E	rs. 2001 No. 206
Division 4.3	
R. 4.38	rs. 1999 No. 68
R. 4.40	rs. 2001 No. 206
Note to r. 4.40 (1)	ad. 1997 No. 109 rep. 2001 No. 206
Note 1 to r. 4.40 (1)	ad. 2001 No. 206
Note 2 to r. 4.40 (1)	ad. 2001 No. 206
R. 4.41	am. 1997 No. 109 rep. 2001 No. 206
Note to r. 4.41	ad. 1997 No. 109 rep. 2001 No. 206
Part 5	
Division 5.1	
Heading to r. 5.01	rs. 1999 No. 68
R. 5.01	am. 1997 No. 109; 1999 No. 68

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 5.02	rs. 1994 No. 280 rep. 2001 No. 206
R. 5.02A	ad. 1998 No. 304 rep. 2001 No. 206
R. 5.03	rs. 1994 No. 280 am. 1997 No. 109; 1998 No. 304; 1999 No. 68; 2000 No. 108 rep. 2001 No. 206
Division 5.2	
R. 5.05	am. 2001 No. 239
R. 5.06	am. 1995 No. 268
R. 5.09	rs. 2001 No. 239
R. 5.12	am. 2001 No. 239
Division 5.3	
R. 5.15A	ad. 1995 No. 117 am. 2007 No. 190
R. 5.15B	ad. 2002 No. 323 rep. 2002 No. 354
R. 5.15C	ad. 2005 No. 171
R. 5.17	am. 1994 No. 376; 1995 Nos. 38 and 117; 1998 No. 210; 2002 No. 348
Heading to r. 5.19	rs. 1999 No. 81
R. 5.19	am. 1995 No. 268; 1997 No. 263; 1999 Nos. 68 and 81; 2002 No. 86; 2004 No. 269; 2005 No. 54
R. 5.19A	ad. 1995 No. 38 am. 2002 No. 348
Division 5.4	
Heading to r. 5.20	rs. 2009 No. 7
R. 5.20	am. 1999 No. 68; 2000 No. 62; 2009 No. 7
Note to r. 5.20	rs. 2009 No. 7
R. 5.21	am. 2009 No. 7
Note to r. 5.21	rs. 2009 No. 7
Division 5.6	
R. 5.32A	ad. 2006 No. 10
R. 5.34	rs. 2001 No. 239
R. 5.34D	ad. 2005 No. 134
R. 5.34E	ad. 2005 No. 134
R. 5.35AA	ad. 2002 No. 86
Division 5.6A	
Div. 5.6A	ad. 2001 No. 284
R. 5.35A	ad. 2001 No. 284

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 5.35B	ad. 2001 No. 284
R. 5.35C	ad. 2001 No. 284
R. 5.35D	ad. 2001 No. 284
R. 5.35E	ad. 2001 No. 284
R. 5.35F	ad. 2001 No. 284
Division 5.7	
Heading to Div. 5.7.....	am. 1997 No. 91
R. 5.36	am. 1997 No. 91; 1999 No. 81; 2000 No. 259; 2004 No. 390
Note to r. 5.36 (1).....	rs. 2005 No. 133
R. 5.37	am. 1995 No. 117 rs. 1995 No. 268 am. 1996 No. 108; 1997 No. 137; 1999 No. 81; 2001 No. 47; 2002 No. 121; 2003 No. 106; 2004 No. 192; 2005 No. 134; 2006 No. 159; 2007 No. 166; 2008 No. 91; 2009 No. 116
R. 5.38	am. 1995 No. 117; 1996 Nos. 108 and 211; 1997 No. 137; 1999 No. 81; 2000 No. 62; 2001 No. 47; 2002 No. 121; 2003 No. 106; 2004 Nos. 192 and 390; 2005 No. 134; 2006 No. 159; 2007 Nos. 87, 129 and 166; 2008 No. 91; 2009 No. 116
R. 5.39	rep. 1997 No. 91
R. 5.40	rs. 1995 No. 117; 1996 No. 211 am. 1997 Nos. 109, 263 and 354; 1998 No. 104; 1999 No. 68; 2003 No. 106 rs. 2006 No. 159
R. 5.41	ad. 1997 No. 137 am. 1999 No. 68; 2008 No. 91
R. 5.42	ad. 1999 No. 76 am. 2001 No. 47 rep. 2002 No. 86
Division 5.8	
Div. 5.8.....	ad. 2001 No. 291
R. 5.43	ad. 2001 No. 291 am. 2009 No. 144
R. 5.44	ad. 2001 No. 291
Schedule 1	
Heading to Schedule 1	rs. 1998 No. 104
Schedule 1	am. 1994 Nos. 280, 376 and 452; 1995 Nos. 38, 117, 268 and 411; 1996 Nos. 12, 75, 76, 108, 211 and 276; 1997 Nos. 17, 64, 91, 109, 137, 184, 216, 263, 279 and 288; 1998 Nos. 36, 104, 139, 214, 304, 305, 306 and 322; 1999 Nos. 8, 58, 68 and 76; 1999 No. 76 (as am. by 1999 No. 81); 1999 No. 81 (as am. by 1999 No. 132);

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
	1999 Nos. 81, 82 and 132; 1999 No. 220 (as am. by 1999 No. 259); 1999 Nos. 243, 259, 260, 321 and 325; 2000 Nos. 62, 192 and 259; 2001 Nos. 27, 47, 86, 142 and 162; Act No. 128, 2001; 2001 Nos. 239, 285 and 344; 2002 Nos. 10, 86, 121, 213, 230, 299 and 348; 2003 No. 57; Act No. 5, 2003; 2003 Nos. 94, 106, 122, 154, 239, 296, 362 and 363; 2004 Nos. 21, 93, 131, 192, 223, 269 and 390; 2005 Nos. 54, 76, 133, 134, 221, 240, 275 and 339; 2006 Nos. 10, 123, 159, 250 and 354; 2007 Nos. 69, 166, 190, 191, 257, 272, 274 and 356; 2008 Nos. 56, 91, 168, 189 and 205; 2009 Nos. 116 and 144
Schedule 2	
Part 010	
Heading to Part 010	am. 1999 No. 81
c. 010.111	ad. 1994 No. 376 am. 1999 No. 81
Note to Div. 010.1	am. 1994 No. 376
c. 010.211	am. 1994 No. 280; 1997 Nos. 109, 263 and 288; 1999 Nos. 68, 81, 259 and 321; 2000 No. 62; 2001 No. 86; 2003 No. 94; 2006 No. 123
Note to c. 010.411	rep. 1999 No. 68
Note 1 to c. 010.411	ad. 1999 No. 68
Note 2 to c. 010.411	ad. 1999 No. 68
c. 010.511	am. 1997 No. 263; 2000 No. 62
c. 010.512	rep. 1994 No. 280
c. 010.513	am. 1999 No. 81; 2000 No. 62
Div. 010.6	rs. 1997 No. 109
c. 010.611	am. 1994 No. 280 rs. 1997 No. 109 am. 1997 Nos. 185, 216 and 288; 1999 Nos. 68 and 321; 2000 No. 62; 2001 No. 162; 2003 No. 94; 2005 No. 240; 2006 Nos. 123 and 250; 2007 Nos. 190 and 257; 2008 Nos. 56 and 189; 2009 No. 143
c. 010.711	rs. 2005 No. 134
c. 010.712	rs. 2005 No. 134
Part 020	
Heading to Part 020	am. 1999 No. 81
c. 020.111	ad. 1994 No. 376 am. 1999 No. 81
Note to Div. 020.1	am. 1994 No. 376
c. 020.211	am. 1999 No. 81
c. 020.212	rs. 1997 No. 263 am. 1999 Nos. 68 and 259; 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 020.222	ad. 2001 No. 162
c. 020.223	ad. 2005 No. 134
c. 020.511	am. 1997 No. 263; 1999 No. 81; 2000 No. 62; 2001 No. 86
c. 020.512	am. 1994 No. 280; 2000 No. 62; 2001 No. 86
Div. 020.6	rs. 1997 No. 109
c. 020.611	rs. 1997 No. 109 am. 1997 Nos. 185, 216 and 288; 1999 No. 321; 2001 No. 162; 2003 No. 363; 2006 Nos. 123 and 250; 2007 Nos. 190 and 257; 2008 Nos. 56 and 189; 2009 No. 143
c. 020.612	rep. 1997 No. 109
c. 020.711	rs. 2005 No. 134
c. 020.712	ad. 2005 No. 134
Part 030	
Heading to Part 030	am. 1999 No. 81
c. 030.111	ad. 1994 No. 376 am. 1999 No. 81
Note to Div. 030.1	am. 1994 No. 376
c. 030.211	am. 1999 No. 81
c. 030.212	am. 1995 No. 134; 1997 Nos. 109, 185 and 263; 1999 Nos. 81 and 321; 2000 No. 62; 2009 No. 143
c. 030.511	am. 1997 No. 263; 2000 No. 62; 2001 No. 86
c. 030.512	am. 1999 No. 81; 2000 No. 62
c. 030.513	rep. 1995 No. 134 ad. 2000 No. 62
c. 030.612	am. 1999 No. 81 rs. 2009 No. 143
c. 030.613	ad. 2009 No. 143
c. 030.711	rs. 2005 No. 134
c. 030.712	rs. 2005 No. 134
Part 040	
Heading to Part 040	am. 1999 No. 81
Note to Subdiv. 040.21	ad. 2000 No. 62
c. 040.212	am. 1997 No. 263; 1999 No. 81 rep. 2000 No. 62
c. 040.213	rs. 1997 No. 263
c. 040.214	am. 1999 No. 81
Part 041	
Heading to Part 041	am. 1999 No. 81
c. 041.221	am. 1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 041.511	am. 2001 No. 86
c. 041.611	rs. 1994 No. 280
Part 042	rep. 1995 No. 411
c. 042.211	rs. 1994 No. 280 rep. 1995 No. 411
c. 042.212	rep. 1995 No. 411
c. 042.221	rep. 1995 No. 411
c. 042.411	rep. 1995 No. 411
c. 042.511	rep. 1995 No. 411
c. 042.611	rs. 1994 No. 280 rep. 1995 No. 411
cc. 042.711, 042.712.....	rep. 1995 No. 411
Part 050	
Heading to Part 050	rs. 1994 No. 280 am. 1999 No. 81
c. 050.111	ad. 1994 No. 376 am. 1999 No. 81
Note to Div. 050.1	am. 1994 No. 376
c. 050.211	rs. 1994 No. 280 am. 1999 No. 81; 2001 No. 86
c. 050.212	am. 1997 Nos. 109, 185 and 263; 1998 Nos. 210 and 304; 1999 Nos. 8, 68, 81, 259 and 321; 2000 No. 62; 2001 No. 86; 2002 No. 348; 2003 No. 94; 2005 No. 172; 2008 No. 91; 2009 No. 143
c. 050.213	rs. 1995 No. 117 rep. 2000 No. 259
c. 050.214	rep. 2000 No. 259
Heading to Subdiv. 050.22..	rs. 2000 No. 259
c. 050.221	am. 2000 No. 259
c. 050.222	rs. 1995 No. 117 am. 2000 No. 62; 2005 No. 172
Note to c. 050.222 (3)	am. 1999 No. 81; 2005 No. 172
c. 050.223	ad. 2000 No. 259
c. 050.224	ad. 2000 No. 259
c. 050.511	am. 1995 No. 117; 1997 No. 263; 2000 No. 62
c. 050.511A.....	ad. 2000 No. 62 am. 2005 No. 172
c. 050.511B.....	ad. 2005 No. 172
c. 050.511C.....	ad. 2005 No. 172 am. 2008 No. 91

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 050.511D.....	ad. 2005 No. 172 am. 2008 No. 91
Note to c. 050.511D	am. 2008 No. 91
c. 050.511E.....	ad. 2005 No. 172
c. 050.512	am. 1995 No. 117; 1997 No. 263; 1998 No. 210; 1999 No. 68; 2000 No. 62; 2003 No. 94
c. 050.513	am. 1995 No. 117; 2003 No. 94
c. 050.513A.....	ad. 2001 No. 86 am. 2003 No. 94
c. 050.513B.....	ad. 2001 No. 86 am. 2003 No. 94
c. 050.514	am. 1995 No. 117; 2003 No. 94
c. 050.514AA.....	ad. 2001 No. 86 am. 2003 No. 94
c. 050.514AB.....	ad. 2001 No. 86 am. 2003 No. 94
c. 050.514A.....	ad. 1995 No. 117
c. 050.515	am. 1994 No. 280
c. 050.516	am. 2000 No. 259
c. 050.611	rs. 1995 No. 117 am. 2000 No. 62; 2001 No. 239; 2006 No. 123
c. 050.611A.....	ad. 1995 No. 117 am. 2001 No. 239; 2006 No. 123 rep. 2009 No. 22
c. 050.611B.....	ad. 1995 No. 117 am. 2000 No. 62; 2001 No. 239; 2006 No. 123
c. 050.612	am. 2006 No. 123
c. 050.612A.....	ad. 1998 No. 210 rs. 1999 No. 8 am. 1999 No. 81 rs. 2000 No. 62 am. 2001 No. 239; 2003 No. 94; 2006 No. 123; 2009 No. 143
c. 050.612B.....	ad. 2005 No. 172
c. 050.613	rs. 1999 No. 8 am. 2001 No. 239; 2006 No. 123
c. 050.613A.....	ad. 1997 No. 109 am. 1997 No. 185; 1999 Nos. 8 and 321; 2001 No. 239; 2006 No. 123; 2009 No. 143
c. 050.614	am. 1994 No. 280; 2001 No. 239; 2006 No. 123; 2009 No. 22 rs. 2009 No. 143
c. 050.615	ad. 2009 No. 143

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 050.616	ad. 2009 No. 143
c. 050.617	ad. 2009 No. 143
c. 050.711	rs. 2005 No. 134
c. 050.712	rs. 2005 No. 134
Part 051	
Heading to Part 051	am. 1999 No. 81
Part 051	ad. 1994 No. 280
Div. 051.1	ad. 1994 No. 280
Note to Div. 051.1	am. 1994 No. 376 rep. 1998 No. 322
c. 051.111	ad. 1994 No. 376 rs. 1998 No. 322 am. 1999 No. 68
Heading to Subdiv. 051.21..	rs. 2005 No. 240
c. 051.211	ad. 1994 No. 280
c. 051.212	ad. 1994 No. 280 am. 1995 No. 268 rs. 1998 No. 322; 1999 No. 68
c. 051.213	ad. 1998 No. 322 am. 2000 No. 62
Heading to Subdiv. 051.22..	rs. 2005 No. 240
c. 051.221	ad. 1994 No. 280 am. 1998 No. 322
c. 051.411	ad. 1994 No. 280
c. 051.511	ad. 1994 No. 280 am. 2000 No. 62
c. 051.512	ad. 1994 No. 280 am. 2000 No. 62
c. 051.513	ad. 1994 No. 280
c. 051.611	ad. 1994 No. 280
c. 051.611A.....	ad. 1997 No. 109 am. 1997 No. 185; 1999 No. 321
c. 051.612	ad. 1994 No. 280
c. 051.711	ad. 1994 No. 280 rs. 2005 No. 134
c. 051.712	ad. 1994 No. 280 rs. 2005 No. 134
Part 060	
Part 060	ad. 2003 No. 362
c. 060.221	ad. 2003 No. 362 rs. 2009 No. 116

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 060.222	ad. 2003 No. 362 am. 2005 No. 275
c. 060.223	ad. 2003 No. 362
c. 060.321	ad. 2003 No. 362
c. 060.322	ad. 2003 No. 362 rs. 2009 No. 116
c. 060.323	ad. 2003 No. 362 am. 2005 No. 275
c. 060.324	ad. 2003 No. 362
c. 060.411	ad. 2003 No. 362 rs. 2005 No. 275 am. 2009 No. 116
c. 060.511	ad. 2003 No. 362 rs. 2005 No. 275 am. 2009 No. 116
c. 060.611	ad. 2003 No. 362
c. 060.612	ad. 2003 No. 362
c. 060.613	ad. 2005 No. 275
c. 060.711	ad. 2003 No. 362 rs. 2005 No. 134
c. 060.712	ad. 2003 No. 362 rs. 2005 No. 134
Part 070	
Part 070	ad. 2005 No. 76
c. 070.111	ad. 2005 No. 76
Heading to Subdiv. 070.21..	rs. 2005 No. 240
c. 070.211	ad. 2005 No. 76
Heading to Subdiv. 070.22..	rs. 2005 No. 240
c. 070.221	ad. 2005 No. 76
c. 070.222	ad. 2005 No. 76
c. 070.223	ad. 2005 No. 76
c. 070.411	ad. 2005 No. 76
c. 070.511	ad. 2005 No. 76
c. 070.611	ad. 2005 No. 76
c. 070.711	ad. 2005 No. 76 rs. 2005 No. 134
c. 070.712	ad. 2005 No. 76 rs. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 100	
Heading to Part 100	rs. 2009 No. 144
Part 100	rs. 1996 No. 276
Div. 100.1	rs. 2002 No. 299
c. 100.111	ad. 1996 No. 276 rs. 2002 No. 299 am. 2009 No. 144
Note to c. 100.111	rs. 2009 No. 144
cc. 100.211, 100.212	rep. 1996 No. 276
c. 100.221	rs. 1996 No. 276 am. 1999 No. 68; 2001 No. 86; 2002 No. 299; 2007 No. 315; 2009 No. 144
Note to 100.221 (4)	am. 2007 No. 315
c. 100.222	rs. 1996 No. 276; 2007 No. 314
c. 100.223	rs. 1996 No. 276 am. 2004 No. 93
c. 100.224	rs. 1994 No. 376; 1996 No. 276 am. 1999 No. 81; 2007 No. 314
c. 100.225	am. 1995 No. 268 rs. 1996 No. 276 am. 2000 No. 62
c. 100.226	am. 1996 No. 75 rs. 1996 No. 276; 2002 No. 299 am. 2009 No. 144
c. 100.227	rep. 1996 No. 276 ad. 2005 No. 134
c. 100.228	am. 1995 Nos. 38 and 268; 1996 No. 75 rep. 1996 No. 276
c. 100.229	rep. 1996 No. 276
c. 100.311	rs. 1996 No. 276 am. 1999 No. 259
c. 100.312	rep. 1996 No. 276
c. 100.321	rs. 1996 No. 276; 2001 No. 86; 2002 No. 230 am. 2002 No. 299; 2003 No. 94; 2009 No. 144
c. 100.322	rs. 1996 No. 276; 2007 No. 314
c. 100.323	am. 1995 No. 268 rs. 1996 No. 276 am. 2004 No. 93
c. 100.324	am. 1996 No. 75 rs. 1996 No. 276 am. 2000 No. 62
c. 100.325	ad. 2005 No. 134
cc. 100.325, 100.326	rep. 1996 No. 276

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 100.411	rs. 1996 No. 276
c. 100.511	rs. 1996 No. 276
c. 100.611	rs. 1996 No. 276
c. 100.612	rs. 1996 No. 276
c. 100.613	rs. 1996 No. 276
c. 100.711	ad. 1996 No. 276 rs. 2005 No. 134
c. 100.712	ad. 2005 No. 134
Part 101	
Div. 101.1	rs. 2000 No. 62
Note to Div. 101.1	rs. 1999 No. 259 rep. 2000 No. 62 ad. 2001 No. 27 am. 2009 No. 144
c. 101.111	ad. 2000 No. 62 rep. 2001 No. 27
c. 101.211	rs. 1999 No. 259 am. 2000 No. 62; 2001 No. 27; 2002 No. 86; 2003 No. 239; 2009 No. 144
c. 101.212	am. 2000 No. 62; 2001 No. 27; 2003 No. 239; 2009 No. 144
c. 101.213	ad. 1999 No. 259 am. 2009 No. 144
c. 101.221	am. 1999 No. 81 rs. 1999 No. 259
c. 101.223	am. 1995 No. 268 rs. 2007 No. 314
c. 101.224	rep. 1996 No. 75
c. 101.225	am. 2004 No. 93
c. 101.226	am. 2000 No. 62
c. 101.227	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 101.228	am. 1999 No. 81; 2000 No. 62
c. 101.229	ad. 2005 No. 134
c. 101.311	am. 1999 No. 81
c. 101.321	am. 1999 No. 81
c. 101.323	am. 1995 No. 268 rs. 2007 No. 314
c. 101.324	rep. 1996 No. 75
c. 101.325	am. 2004 No. 93
c. 101.326	am. 1999 No. 81; 2000 No. 62
c. 101.327	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 101.511	am. 1996 No. 211
c. 101.612	am. 1999 No. 81
c. 101.711	rs. 2005 No. 134
c. 101.712	ad. 2005 No. 134
Part 102	
c. 102.111	am. 1998 Nos. 284 and 304; 2003 No. 239; 2009 No. 144
c. 102.211	am. 1998 No. 284; 2001 No. 27; 2003 No. 239; 2004 No. 390; 2009 No. 144
c. 102.212	rs. 1998 No. 284 am. 2001 No. 27; 2003 No. 239
c. 102.221	am. 1999 No. 81
c. 102.223	am. 1995 No. 268
c. 102.224	am. 1995 No. 38 rep. 1996 No. 75
c. 102.225	am. 2004 No. 93
c. 102.226	am. 1995 No. 268; 1996 No. 75; 1999 No. 81
c. 102.227	am. 1999 No. 81; 2000 No. 62
c. 102.227A	ad. 2004 No. 390
c. 102.228	ad. 1998 No. 284
c. 102.229	ad. 2005 No. 134
c. 102.311	am. 1999 No. 81
c. 102.321	am. 1999 No. 81
c. 102.323	am. 1995 No. 268
c. 102.324	rep. 1996 No. 75
c. 102.325	am. 2004 No. 93
c. 102.326	am. 1999 No. 81; 2000 No. 62
c. 102.327	ad. 2005 No. 134
c. 102.511	am. 1996 No. 211
c. 102.612	am. 1999 No. 81
c. 102.711	rs. 2005 No. 134
c. 102.712	ad. 2005 No. 134
Part 103	
Note to Div. 103.1	am. 2009 No. 144
c. 103.212	am. 2009 No. 144
c. 103.221	am. 1999 No. 132
c. 103.222	rs. 2009 No. 116
c. 103.223	rep. 2009 No. 116
c. 103.224	am. 1995 No. 268 rs. 2007 No. 314
c. 103.225	rs. 1996 No. 75

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 103.226	am. 2004 No. 93
c. 103.227	am. 1995 No. 268; 1996 No. 75; 1999 Nos. 81 and 132; 2007 No. 314
c. 103.228	am. 1999 No. 132; 2000 No. 62
c. 103.229	ad. Act No. 5, 2003
c. 103.230	ad. 2005 No. 134
c. 103.311	am. 1999 No. 132
c. 103.312	rs. 2009 No. 116
c. 103.321	am. 1999 No. 132
c. 103.322	rs. 2009 No. 116
c. 103.323	am. 1995 No. 268 rs. 2007 No. 314
c. 103.324	rs. 1996 No. 75
c. 103.325	am. 2004 No. 93
c. 103.326	am. 2000 No. 62
c. 103.327	ad. Act No. 5, 2003
c. 103.328	ad. 2005 No. 134
Note to c. 103.411	rs. 1997 No. 91
c. 103.511	am. 1996 No. 211
c. 103.612	am. 1999 No. 132
c. 103.711	rs. 2005 No. 134
c. 103.712	ad. 2005 No. 134
Part 104	rep. 1999 No. 259
Note to Div. 104.1	am. 1998 No. 306 rep. 1999 No. 259
c. 104.211	am. 1998 No. 306; 1999 No. 81 rep. 1999 No. 259
c. 104.221	rs. 1998 Nos. 104 and 306 rep. 1999 No. 259
c. 104.222	rep. 1999 No. 259
c. 104.223	am. 1995 No. 268 rep. 1999 No. 259
c. 104.224	rs. 1996 No. 75 rep. 1999 No. 259
c. 104.224A	ad. 1996 No. 75 am. 1998 No. 306 rep. 1999 No. 259
c. 104.225	rep. 1999 No. 259
c. 104.226	am. 1995 No. 268; 1996 No. 75; 1998 No. 306; 1999 No. 81 rep. 1999 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 104.227	am. 1999 No. 81 rep. 1999 No. 259
c. 104.228	rep. 1999 No. 259
cc. 104.311, 104.312.....	rep. 1999 No. 259
c. 104.321	am. 1999 No. 81 rep. 1999 No. 259
c. 104.322	rep. 1999 No. 259
c. 104.323	am. 1995 No. 268 rep. 1999 No. 259
c. 104.324	rs. 1996 No. 75 rep. 1999 No. 259
c. 104.324A.....	ad. 1996 No. 75 am. 1998 No. 306 rep. 1999 No. 259
c. 104.325	rep. 1995 No. 259
c. 104.326	am. 1999 No. 81 rep. 1999 No. 259
c. 104.411	rep. 1999 No. 259
Note to c. 104.411.....	rs. 1997 No. 91 rep. 1999 No. 259
c. 104.511	am. 1996 No. 211 rep. 1999 No. 259
c. 104.611	rep. 1999 No. 259
c. 104.612	am. 1999 No. 81 rep. 1999 No. 259
c. 104.711	rep. 1999 No. 259
Part 105	
Heading to Part 105	rs. 1997 No. 137; 1998 No. 304
c. 105.11	
Renumbered c. 105.111 ..	1999 No. 81
Note to c. 105.11.....	ad. 1996 No. 211 rs. 1997 No. 263
c. 105.211	am. 2009 No. 144
Note to c. 105.222.....	am. 1999 No. 81; 2009 No. 144
c. 105.223	am. 1994 No. 376 rs. 2009 No. 144
c. 105.224	am. 1997 Nos. 184 and 263; 2009 No. 144
c. 105.225	am. 1995 No. 268
c. 105.226	am. 1996 No. 75
c. 105.227	am. 2004 No. 93
c. 105.228	am. 1995 No. 268; 1996 No. 75; 1999 No. 81
c. 105.229	am. 1999 No. 81; 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 105.230	am. 1999 No. 81
c. 105.311	am. 1999 No. 81
c. 105.321	am. 1999 No. 81
c. 105.323	am. 1995 No. 268
c. 105.324	am. 1996 No. 75
c. 105.325	am. 2004 No. 93
c. 105.326	am. 1999 No. 81; 2000 No. 62
Note to c. 105.411	rs. 1997 No. 91
c. 105.511	am. 1996 No. 211
c. 105.612	am. 1999 No. 81
c. 105.613	ad. 2002 No. 86
Part 106	
Heading to Part 106	rs. 1997 No. 137; 1998 No. 304
Part 106	ad. 1996 No. 211
c. 106.111	ad. 1996 No. 211 rs. 1999 No. 81
Note to c. 106.111	rs. 1997 No. 263 rep. 1999 No. 81
Note 1 to c. 106.111	ad. 1999 No. 81
Note 2 to c. 106.111	ad. 1999 No. 81
c. 106.211	ad. 1996 No. 211 am. 1998 No. 104; 2009 No. 144
c. 106.212	ad. 1996 No. 211
c. 106.213	ad. 1996 No. 211 am. 2009 No. 144
c. 106.214	ad. 1996 No. 211 am. 2009 No. 144
c. 106.221	ad. 1996 No. 211
c. 106.222	ad. 1996 No. 211
c. 106.223	ad. 1996 No. 211 am. 1997 No. 263; 2009 No. 144
c. 106.224	ad. 1996 No. 211
c. 106.225	ad. 1996 No. 211
c. 106.226	ad. 1996 No. 211 am. 2004 No. 93
c. 106.227	ad. 1996 No. 211
c. 106.228	ad. 1996 No. 211
c. 106.229	ad. 1996 No. 211 am. 2000 No. 62
c. 106.230	ad. 1996 No. 211

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 106.311	ad. 1996 No. 211 am. 1999 No. 81
c. 106.312	ad. 1996 No. 211
c. 106.321	ad. 1996 No. 211
c. 106.322	ad. 1996 No. 211
c. 106.323	ad. 1996 No. 211
c. 106.324	ad. 1996 No. 211
c. 106.325	ad. 1996 No. 211 am. 2004 No. 93
c. 106.326	ad. 1996 No. 211 am. 2000 No. 62
c. 106.411	ad. 1996 No. 211
Note to c. 106.411	rs. 1997 No. 91
c. 106.511	ad. 1996 No. 211
c. 106.611	ad. 1996 No. 211
c. 106.612	ad. 1996 No. 211
c. 106.613	ad. 2002 No. 86
c. 106.711	ad. 1996 No. 211
Part 110	ad. 1995 No. 117 rs. 1996 No. 276 rep. 2009 No. 144
Div. 110.1	rs. 2002 No. 299 rep. 2009 No. 144
c. 110.111	ad. 1996 No. 276 rs. 2002 No. 299 rep. 2009 No. 144
cc. 110.211, 110.212	ad. 1995 No. 117 rep. 1996 No. 276
c. 110.221	ad. 1995 No. 117 rs. 1996 No. 276 am. 1999 No. 68; 2001 No. 86; 2002 No. 299; 2007 No. 315 rep. 2009 No. 144
Note to 110.221 (4)	am. 2007 No. 315 rep. 2009 No. 144
c. 110.222	ad. 1995 No. 117 rs. 1996 No. 276 am. 2007 No. 314 rep. 2009 No. 144
c. 110.223	ad. 1995 No. 117 rs. 1996 No. 276 am. 2004 No. 93 rep. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 110.224	ad. 1995 No. 117 am. 1995 No. 268 rs. 1996 No. 276 am. 1999 No. 132; 2007 No. 314 rep. 2009 No. 144
c. 110.225	ad. 1995 No. 117 am. 1996 No. 75 rs. 1996 No. 276 am. 2000 No. 62 rep. 2009 No. 144
c. 110.226	ad. 1995 No. 117 rs. 1996 No. 276; 2002 No. 299 rep. 2009 No. 144
c. 110.227	ad. 1995 No. 117 am. 1995 No. 268; 1996 No. 75 rep. 1996 No. 276 ad. 2005 No. 134 rep. 2009 No. 144
c. 110.228	ad. 1995 No. 117 rep. 1996 No. 276
c. 110.311	ad. 1995 No. 117 rs. 1996 No. 276 am. 1999 No. 132 rep. 2009 No. 144
c. 110.312	ad. 1995 No. 117 rep. 1996 No. 276
c. 110.321	ad. 1995 No. 117 rs. 1996 No. 276; 2001 No. 86; 2002 Nos. 230 and 299 am. 2003 No. 94 rep. 2009 No. 144
c. 110.322	ad. 1995 No. 117 rs. 1996 No. 276; 2007 No. 314 rep. 2009 No. 144
c. 110.323	ad. 1995 No. 117 am. 1995 No. 268 rs. 1996 No. 276 am. 2004 No. 93 rep. 2009 No. 144
c. 110.324	ad. 1995 No. 117 am. 1996 No. 75 rs. 1996 No. 276 am. 2000 No. 62 rep. 2009 No. 144
c. 110.325	ad. 1995 No. 117 rep. 1996 No. 276 ad. 2005 No. 134 rep. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 110.326	ad. 1995 No. 117 rep. 1996 No. 276
c. 110.411	ad. 1995 No. 117 rs. 1996 No. 276 rep. 2009 No. 144
c. 110.511	ad. 1995 No. 117 rs. 1996 No. 276 rep. 2009 No. 144
c. 110.611	ad. 1995 No. 117 rs. 1996 No. 276 rep. 2009 No. 144
c. 110.612	ad. 1995 No. 117 rs. 1996 No. 276 rep. 2009 No. 144
c. 110.613	ad. 1995 No. 117 rs. 1996 No. 276 rep. 2009 No. 144
c. 110.711	ad. 1995 No. 117 rs. 1996 No. 276; 2005 No. 134 rep. 2009 No. 144
c. 110.712	ad. 2005 No. 134 rep. 2009 No. 144
Part 114	
Part 114	ad. 1999 No. 259
Note to Div. 114.1	am. 2009 No. 144
c. 114.211	ad. 1999 No. 259
c. 114.212	ad. 1999 No. 259 am. 2009 No. 144
c. 114.221	ad. 1999 No. 259
c. 114.222	ad. 1999 No. 259
c. 114.223	ad. 1999 No. 259 am. 2007 No. 314
c. 114.224	ad. 1999 No. 259
c. 114.225	ad. 1999 No. 259 am. 2004 No. 93
c. 114.226	ad. 1999 No. 259 am. 2007 No. 314
c. 114.227	ad. 1999 No. 259 am. 2000 No. 62
c. 114.228	ad. 2005 No. 134
c. 114.311	ad. 1999 No. 259
c. 114.312	ad. 1999 No. 259
c. 114.321	ad. 1999 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 114.322	ad. 1999 No. 259
c. 114.323	ad. 1999 No. 259 rs. 2007 No. 314
c. 114.324	ad. 1999 No. 259
c. 114.325	ad. 1999 No. 259 am. 2004 No. 93
c. 114.326	ad. 1999 No. 259 am. 2000 No. 62
c. 114.327	ad. 2005 No. 134
c. 114.411	ad. 1999 No. 259
c. 114.511	ad. 1999 No. 259
c. 114.611	ad. 1999 No. 259
c. 114.612	ad. 1999 No. 259
c. 114.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 114.712	ad. 2005 No. 134
Part 115	
Part 115	ad. 1999 No. 259
Note to Div. 115.1	am. 2009 No. 144
c. 115.211	ad. 1999 No. 259
c. 115.212	ad. 1999 No. 259 am. 2000 No. 62; 2009 No. 116
c. 115.221	ad. 1999 No. 259
c. 115.222	ad. 1999 No. 259 rs. 2009 No. 116
c. 115.223	ad. 1999 No. 259 rs. 2007 No. 314
c. 115.224	ad. 1999 No. 259
c. 115.225	ad. 1999 No. 259 am. 2004 No. 93
c. 115.226	ad. 1999 No. 259 am. 2007 No. 314
c. 115.227	ad. 1999 No. 259 am. 2000 No. 62
c. 115.228	ad. 2005 No. 134
c. 115.311	ad. 1999 No. 259
c. 115.312	ad. 1999 No. 259 rs. 2009 No. 116
c. 115.321	ad. 1999 No. 259
c. 115.322	ad. 1999 No. 259 rs. 2009 No. 116

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 115.323	ad. 1999 No. 259 rs. 2007 No. 314
c. 115.324	ad. 1999 No. 259
c. 115.325	ad. 1999 No. 259 am. 2004 No. 93
c. 115.326	ad. 1999 No. 259 am. 2000 No. 62
c. 115.327	ad. 2005 No. 134
c. 115.411	ad. 1999 No. 259
c. 115.511	ad. 1999 No. 259
c. 115.611	ad. 1999 No. 259
c. 115.612	ad. 1999 No. 259
c. 115.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 115.712	ad. 2005 No. 134
Part 116	
Part 116	ad. 1999 No. 259
Note to Div. 116.1	am. 2009 No. 144
c. 116.211	ad. 1999 No. 259
c. 116.212	ad. 1999 No. 259 am. 2009 No. 144
c. 116.221	ad. 1999 No. 259
c. 116.222	ad. 1999 No. 259
c. 116.223	ad. 1999 No. 259 rs. 2007 No. 314
c. 116.224	ad. 1999 No. 259
c. 116.225	ad. 1999 No. 259 am. 2004 No. 93 rep. 2007 No. 356
c. 116.226	ad. 1999 No. 259 am. 2007 No. 314
c. 116.227	ad. 1999 No. 259 am. 2000 No. 62
c. 116.228	ad. 2005 No. 134
c. 116.311	ad. 1999 No. 259
c. 116.312	ad. 1999 No. 259
c. 116.321	ad. 1999 No. 259
c. 116.322	ad. 1999 No. 259
c. 116.323	ad. 1999 No. 259 rs. 2007 No. 314
c. 116.324	ad. 1999 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 116.325	ad. 1999 No. 259 am. 2004 No. 93 rep. 2007 No. 356
c. 116.326	ad. 1999 No. 259 am. 2000 No. 62
c. 116.327	ad. 2005 No. 134
c. 116.411	ad. 1999 No. 259
c. 116.511	ad. 1999 No. 259
c. 116.611	ad. 1999 No. 259
c. 116.612	ad. 1999 No. 259
c. 116.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 116.712	ad. 2005 No. 134
Part 117	
Part 117	ad. 1999 No. 259
Note to Div. 117.1	rep. 2002 No. 86
c. 117.111	ad. 2002 No. 86
Note to c. 117.111	am. 2009 No. 144
c. 117.211	ad. 1999 No. 259 am. 2000 No. 62; 2001 No. 27 rs. 2002 No. 86
c. 117.212	ad. 1999 No. 259 am. 2000 No. 62; 2001 No. 27 rs. 2002 No. 86 am. 2009 No. 144
c. 117.221	ad. 1999 No. 259
c. 117.222	ad. 1999 No. 259
c. 117.223	ad. 1999 No. 259
c. 117.224	ad. 1999 No. 259 am. 2004 No. 93
c. 117.225	ad. 1999 No. 259
c. 117.226	ad. 1999 No. 259 am. 2000 No. 62
c. 117.227	ad. 1999 No. 259 am. 2000 No. 62
c. 117.228	ad. 2005 No. 134
c. 117.311	ad. 1999 No. 259
c. 117.312	ad. 1999 No. 259
c. 117.321	ad. 1999 No. 259
c. 117.322	ad. 1999 No. 259
c. 117.323	ad. 1999 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 117.324	ad. 1999 No. 259 am. 2004 No. 93
c. 117.325	ad. 1999 No. 259 am. 2000 No. 62
c. 117.326	ad. 2005 No. 134
c. 117.411	ad. 1999 No. 259
c. 117.511	ad. 1999 No. 259
c. 117.611	ad. 1999 No. 259
c. 117.612	ad. 1999 No. 259
c. 117.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 117.712	ad. 2005 No. 134
Part 118	
Part 118	ad. 1999 No. 260 (as am. by 1999 No. 321)
Note to Div. 118.1	am. 2009 No. 144
c. 118.211	ad. 1999 No. 260
c. 118.212	ad. 1999 No. 260
c. 118.213	ad. 1999 No. 260 am. 2009 No. 144
c. 118.214	ad. 1999 No. 260
c. 118.221	ad. 1999 No. 260
c. 118.222	ad. 1999 No. 260
c. 118.223	ad. 1999 No. 260
c. 118.224	ad. 1999 No. 260
c. 118.225	ad. 1999 No. 260
c. 118.226	ad. 1999 No. 260 am. 2004 No. 93
c. 118.227	ad. 1999 No. 260
c. 118.228	ad. 1999 No. 260 am. 2000 No. 62
c. 118.311	ad. 1999 No. 260
c. 118.312	ad. 1999 No. 260
c. 118.321	ad. 1999 No. 260
c. 118.322	ad. 1999 No. 260
c. 118.323	ad. 1999 No. 260
c. 118.324	ad. 1999 No. 260
c. 118.325	ad. 1999 No. 260 am. 2004 No. 93
c. 118.326	ad. 1999 No. 260 am. 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 118.411	ad. 1999 No. 260
c. 118.511	ad. 1999 No. 260
c. 118.611	ad. 1999 No. 260
c. 118.612	ad. 1999 No. 260
c. 118.711	ad. 1999 No. 260
Part 119	
Part 119	ad. 1999 No. 220 (as am. by 1999 No. 321)
Div. 119.1	rs. 2005 No. 54
Note to Div. 119.1	rep. 2005 No. 54
c. 119.111	ad. 2005 No. 54
c. 119.211	ad. 1999 No. 220 am. 2002 No. 86 rs. 2002 No. 213 am. 2005 No. 54; 2006 No. 250; 2007 No. 257
c. 119.212	ad. 1999 No. 220
c. 119.221	ad. 1999 No. 220 rs. 2005 No. 54
c. 119.222	ad. 1999 No. 220
c. 119.223	ad. 1999 No. 220 am. 2002 No. 213; 2007 No. 314
c. 119.224	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 119.225	ad. 1999 No. 220 am. 2002 No. 213; 2007 No. 314
c. 119.226	ad. 1999 No. 220 am. 2000 No. 62
c. 119.227	ad. 2005 No. 134
c. 119.311	ad. 1999 No. 220
c. 119.312	ad. 2005 No. 54
c. 119.321	ad. 1999 No. 220
c. 119.322	ad. 1999 No. 220 am. 2007 No. 314
c. 119.323	ad. 1999 No. 220 am. 2002 No. 213
c. 119.324	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 119.325	ad. 1999 No. 220 am. 2000 No. 62
c. 119.326	ad. 2005 No. 134
c. 119.411	ad. 1999 No. 220

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 119.511	ad. 1999 No. 220
c. 119.611	ad. 1999 No. 220
c. 119.612	ad. 1999 No. 220
c. 119.711	ad. 1999 No. 220 rs. 2005 No. 134
c. 119.712	ad. 2005 No. 134
Part 120	
Note to Div. 120.1	rep. 2005 No. 54
Note 1 to Div. 120.1	ad. 2005 No. 54
Note 2 to Div. 120.1	ad. 2005 No. 54
Note 3 to Div. 120.1	ad. 2005 No. 54
Subdiv. 120.21	rs. 2003 No. 239
c. 120.211	rs. 1994 No. 280 am. 1997 No. 263 rs. 2002 No. 213; 2003 No. 239 am. 2005 No. 54; 2007 No. 257
c. 120.222	am. 1995 No. 268; 1996 No. 75; 2002 No. 213; 2007 No. 314
c. 120.223	am. 2004 No. 93 rep. 2008 No. 166
c. 120.224	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2002 No. 213; 2007 No. 314
c. 120.225	am. 1999 No. 81; 2000 No. 62
c. 120.226	ad. 2005 No. 54
c. 120.227	ad. 2005 No. 134
c. 120.311	am. 1999 No. 81
c. 120.312	ad. 2005 No. 54
c. 120.321	am. 1999 No. 81
c. 120.322	am. 1995 No. 268 rs. 2007 No. 314
c. 120.323	am. 1996 No. 75; 2002 No. 213
c. 120.324	am. 1999 No. 81; 2004 No. 93 rep. 2008 No. 166
c. 120.325	am. 1999 No. 81; 2000 No. 62
c. 120.326	ad. 2005 No. 134
Note to c. 120.411	rs. 1997 No. 91
c. 120.511	am. 1996 No. 211
c. 120.62 Renumbered c. 120.612 ..	1999 No. 81
c. 120.711	rs. 2005 No. 134
c. 120.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 121	
Note to Div. 121.1	rs. 1995 No. 268; 1997 No. 263
c. 121.210	ad. 2007 No. 257
c. 121.211A	ad. 2006 No. 250
c. 121.211	rs. 1995 No. 268 am. 1996 No. 211; 1997 No. 263; 1999 No. 68; 1999 No. 68 (as rep. by 1999 No. 132); 1999 No. 76; 1999 No. 76 (as am. by 1999 No. 132) rs. 1999 No. 220; 2005 No. 54 am. 2006 No. 250; 2007 No. 257
c. 121.212	rs. 1997 No. 263
c. 121.213	ad. 2005 No. 54
c. 121.221	rs. 1997 No. 263; 1999 No. 81 am. 1999 No. 220 rs. 2005 No. 54
c. 121.222	rep. 1997 No. 263
c. 121.224	am. 1995 No. 268; 1996 No. 75; 2002 No. 213; 2007 No. 314
c. 121.225	am. 2004 No. 93 rep. 2008 No. 166
c. 121.226	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2002 No. 213; 2007 No. 314
c. 121.227	am. 1999 No. 81; 2000 No. 62
c. 121.228	ad. 2005 No. 134
c. 121.311	am. 1999 No. 81
c. 121.312	ad. 2005 No. 54
c. 121.321	am. 1999 No. 81
c. 121.322	am. 1995 No. 268; 1999 No. 81; 2007 No. 314
c. 121.323	am. 1996 No. 75; 2002 No. 213
c. 121.324	am. 2004 No. 93 rep. 2008 No. 166
c. 121.325	am. 1999 No. 81; 2000 No. 62
c. 121.326	ad. 2005 No. 134
Note to c. 121.411	rs. 1997 No. 91
c. 121.511	am. 1996 No. 211
c. 121.711	rs. 2005 No. 134
c. 121.712	ad. 2005 No. 134
Part 124	
Heading to Part 124	rs. 1999 No. 220
c. 124.211	am. 1999 No. 81 rs. 1999 No. 220 am. 2003 No. 239; 2006 No. 123

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 124.212	rep. 1999 No. 220
c. 124.221	am. 1995 No. 268 rs. 2007 No. 314
c. 124.222	am. 1996 No. 75
c. 124.223	am. 2004 No. 93 rep. 2008 No. 166
c. 124.224	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 124.225	am. 1999 No. 81; 2000 No. 62
c. 124.226	ad. 2003 No. 239
c. 124.227	ad. 2005 No. 134
Note to Div. 124.3	rep. 2003 No. 239
Note 1 to Div. 124.3	ad. 2003 No. 239
Note 2 to Div. 124.3	ad. 2003 No. 239
c. 124.311	am. 1999 No. 81
c. 124.321	am. 1999 No. 81
c. 124.322	am. 1995 No. 268 rs. 2007 No. 314
c. 124.323	am. 1996 No. 75
c. 124.324	am. 2004 No. 93 rep. 2008 No. 166
c. 124.325	am. 1999 No. 81; 2000 No. 62
c. 124.326	ad. 2005 No. 134
Note to c. 124.411	rs. 1997 No. 91
c. 124.511	am. 1996 No. 211
c. 124.711	rs. 2005 No. 134
c. 124.712	ad. 2005 No. 134
Part 125	rep. 1999 No. 220
c. 125.211	rep. 1999 No. 220
c. 125.221	am. 1995 No. 268 rep. 1999 No. 220
c. 125.222	am. 1996 No. 75 rep. 1999 No. 220
c. 125.223	rep. 1999 No. 220
c. 125.224	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 1999 No. 220
c. 125.225	am. 1999 No. 81 rep. 1999 No. 220
c. 125.311	am. 1999 No. 81 rep. 1999 No. 220

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 125.321	am. 1999 No. 81 rep. 1999 No. 220
c. 125.322	am. 1995 No. 268 rep. 1999 No. 220
c. 125.323	am. 1996 No. 75 rep. 1999 No. 220
c. 125.324	rep. 1999 No. 220
c. 125.325	am. 1999 No. 81 rep. 1999 No. 220
c. 125.411	rep. 1999 No. 220
Note to c. 125.411	rs. 1997 No. 91 rep. 1999 No. 220
c. 125.511	am. 1996 No. 211 rep. 1999 No. 220
cc. 125.611, 125.612.....	rep. 1999 No. 220
c. 125.711	rep. 1999 No. 220
Part 126	
c. 126.11	
Renumbered c. 126.111 ..	1999 No. 81
Note to c. 126.11	rs. 1997 No. 263
Note to c. 126.221	am. 1999 No. 81
c. 126.222	am. 1997 No. 263
c. 126.223	am. 1995 No. 268
c. 126.224	am. 1996 No. 75
c. 126.225	am. 2004 No. 93
c. 126.226	am. 1995 No. 268; 1996 No. 75; 1999 No. 81
c. 126.227	am. 1999 No. 81; 2000 No. 62
c. 126.228	am. 1999 No. 81
c. 126.311	am. 1999 No. 81
c. 126.321	am. 1999 No. 81
c. 126.322	am. 1995 No. 268
c. 126.323	am. 1996 No. 75
c. 126.324	am. 2004 No. 93
c. 126.325	am. 1999 No. 81; 2000 No. 62
Note to c. 126.411	rs. 1997 No. 91
c. 126.511	am. 1996 No. 211
c. 126.612	am. 1999 No. 81
c. 126.613	ad. 2002 No. 86

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 127	rep. 2002 No. 348
Note to Div. 127.1	rs. 1994 No. 376; 1997 No. 109 rep. 2002 No. 348
c. 127.211	am. 1994 No. 376 rep. 2002 No. 348
c. 127.212	am. 1994 No. 376; 1999 No. 220 rep. 2002 No. 348
cc. 127.213–127.215.....	rep. 2002 No. 348
c. 127.216	am. 1999 No. 81 rep. 2002 No. 348
c. 127.217	rep. 2002 No. 348
c. 127.218	am. 1999 No. 81 rep. 2002 No. 348
c. 127.221	am. 1999 No. 81 rep. 2002 No. 348
c. 127.222	am. 1995 No. 38; 1999 No. 81 rep. 2002 No. 348
c. 127.223	am. 1995 No. 268 rep. 2002 No. 348
c. 127.224	am. 1996 No. 75 rep. 2002 No. 348
c. 127.225	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2002 No. 348
c. 127.226	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348
c. 127.311	am. 1999 No. 81 rep. 2002 No. 348
c. 127.321	am. 1999 No. 81 rep. 2002 No. 348
c. 127.322	am. 1995 No. 268 rep. 2002 No. 348
c. 127.323	am. 1996 No. 75 rep. 2002 No. 348
c. 127.324	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348
c. 127.411	rep. 2002 No. 348
Note to c. 127.411	rs. 1997 No. 91 rep. 2002 No. 348
c. 127.511	am. 1996 No. 211 rep. 2002 No. 348
cc. 127.611, 127.612.....	rep. 2002 No. 348
c. 127.711	rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 128	rep. 2002 No. 348
c. 128.111	rep. 2002 No. 348
Note to c. 128.111	rs. 1997 No. 109 rep. 2002 No. 348
cc. 128.211–128.213	rep. 2002 No. 348
c. 128.214	am. 1999 No. 81 rep. 2002 No. 248
c. 128.215	rep. 2002 No. 348
c. 128.216	am. 1999 No. 81 rep. 2002 No. 348
c. 128.221	am. 1999 No. 81 rep. 2002 No. 348
c. 128.222	am. 1995 No. 38; 1999 No. 81 rep. 2002 No. 348
c. 128.223	am. 1995 No. 268 rep. 2002 No. 348
c. 128.224	am. 1996 No. 75 rep. 2002 No. 348
c. 128.225	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2002 No. 348
c. 128.226	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348
c. 128.311	am. 1999 No. 81 rep. 2002 No. 348
c. 128.321	am. 1999 No. 81 rep. 2002 No. 348
c. 128.322	am. 1995 No. 268 rep. 2002 No. 348
c. 128.323	am. 1996 No. 75 rep. 2002 No. 348
c. 128.324	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348
c. 128.411	rep. 2002 No. 348
Note to c. 128.411	rs. 1997 No. 91 rep. 2002 No. 348
c. 128.511	am. 1996 No. 211 rep. 2002 No. 348
cc. 128.611, 128.612	rep. 2002 No. 348
c. 128.711	rep. 2002 No. 348
Part 129	rep. 2002 No. 348
Note to Div. 129.1	rs. 1994 No. 376; 1997 No. 109 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 129.211	am. 1994 No. 376 rep. 2002 No. 348
c. 129.212	am. 1994 No. 376; 1999 No. 220 rep. 2002 No. 348
cc. 129.213, 129.214.....	rep. 2002 No. 348
c. 129.215	rs. 2001 No. 86 rep. 2002 No. 348
c. 129.216	am. 1996 No. 75; 1999 No. 81 rep. 2002 No. 348
c. 129.217	rep. 2002 No. 348
c. 129.218	am. 1999 No. 81 rep. 2002 No. 348
c. 129.221	am. 1999 No. 81 rep. 2002 No. 348
c. 129.222	am. 1995 No. 38; 1999 No. 81 rep. 2002 No. 348
c. 129.223	am. 1995 No. 268 rep. 2002 No. 348
c. 129.224	am. 1996 No. 75 rep. 2002 No. 348
c. 129.225	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2002 No. 348
c. 129.226	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348
c. 129.227	rs. 1995 No. 38 rep. 2001 No. 86
c. 129.311	am. 1999 No. 81 rep. 2002 No. 348
c. 129.312	rep. 2001 No. 86
c. 129.321	am. 1999 No. 81 rep. 2002 No. 348
c. 129.322	am. 1995 No. 268 rep. 2002 No. 348
c. 129.323	am. 1996 No. 75 rep. 2002 No. 348
c. 129.324	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348
c. 129.325	am. 1999 No. 81 rep. 2001 No. 86
c. 129.411	rep. 2002 No. 348
Note to c. 129.411.....	rs. 1997 No. 91 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 129.511	am. 1996 No. 211 rep. 2002 No. 348
cc. 129.611, 129.612.....	rep. 2002 No. 348
c. 129.711	rep. 2002 No. 348
Part 130	rep. 2002 No. 348
c. 130.111	rep. 2002 No. 348
Note to c. 130.111.....	rs. 1997 No. 109 rep. 2002 No. 348
cc. 130.211, 130.212.....	rep. 2002 No. 348
c. 130.213	am. 1997 No. 109 rs. 2001 No. 86 rep. 2002 No. 348
c. 130.214	am. 1996 No. 75; 1999 No. 81 rep. 2002 No. 348
c. 130.215	rep. 2002 No. 348
c. 130.216	am. 1999 No. 81 rep. 2002 No. 348
c. 130.221	am. 1999 No. 81; 2001 No. 86 rep. 2002 No. 348
c. 130.222	am. 1995 No. 38; 1999 No. 81 rep. 2002 No. 348
c. 130.223	am. 1995 No. 268 rep. 2002 No. 348
c. 130.224	am. 1996 No. 75 rep. 2002 No. 348
c. 130.225	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2002 No. 348
c. 130.226	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348
c. 130.227	rs. 1995 No. 38 rep. 2001 No. 86
c. 130.311	am. 1999 No. 81 rep. 2002 No. 348
c. 130.312	rep. 2001 No. 86
c. 130.321	am. 1999 No. 81 rep. 2002 No. 348
c. 130.322	am. 1995 No. 268 rep. 2002 No. 348
c. 130.323	am. 1996 No. 75 rep. 2002 No. 348
c. 130.324	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 130.325	am. 1999 No. 81 rep. 2001 No. 86
c. 130.411	rep. 2002 No. 348
Note to c. 130.411	rs. 1997 No. 91 rep. 2002 No. 348
c. 130.511	am. 1996 No. 211 rep. 2002 No. 348
cc. 130.611, 130.612.....	rep. 2002 No. 348
c. 130.711	rep. 2002 No. 348
Part 131	ad. 1995 No. 38 rep. 2002 No. 348
c. 131.111	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 131.111	rs. 1997 No. 109 rep. 2002 No. 348
cc. 131.211–131.216.....	ad. 1995 No. 38 rep. 2002 No. 348
cc. 131.221–131.223.....	ad. 1995 No. 38 rep. 2002 No. 348
c. 131.224	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 131.225	ad. 1995 No. 38 am. 1996 No. 75 rep. 2002 No. 348
c. 131.226	ad. 1995 No. 38 am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2002 No. 348
c. 131.227	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 131.311	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 131.321	ad. 1995 No. 38 rep. 2002 No. 348
c. 131.322	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 131.323	ad. 1995 No. 38 am. 1996 No. 75 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 131.324	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 131.411	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 131.411	rs. 1997 No. 91 rep. 2002 No. 348
c. 131.511	ad. 1995 No. 38 am. 1996 No. 211 rep. 2002 No. 348
cc. 131.611, 131.612.....	ad. 1995 No. 38 rep. 2002 No. 348
c. 131.711	ad. 1995 No. 38 rep. 2002 No. 348
Part 132	
Part 132	ad. 2002 No. 348
c. 132.211	ad. 2002 No. 348
c. 132.212	ad. 2002 No. 348 am. 2009 No. 144
c. 132.213	ad. 2002 No. 348
c. 132.214	ad. 2002 No. 348 am. 2009 No. 144
c. 132.215	ad. 2002 No. 348
c. 132.216	ad. 2002 No. 348 am. 2009 No. 144
c. 132.217	ad. 2002 No. 348
c. 132.218	ad. 2002 No. 348
c. 132.221	ad. 2002 No. 348
c. 132.222	ad. 2002 No. 348 rs. 2007 No. 314
c. 132.223	ad. 2002 No. 348 rs. 2008 No. 166
c. 132.224	ad. 2002 No. 348
c. 132.225	ad. 2002 No. 348 am. 2007 No. 314
c. 132.226	ad. 2002 No. 348
c. 132.227	ad. 2005 No. 134
c. 132.311	ad. 2002 No. 348
c. 132.321	ad. 2002 No. 348
c. 132.322	ad. 2002 No. 348 rs. 2007 No. 314
c. 132.323	ad. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 132.324	ad. 2002 No. 348
c. 132.325	ad. 2005 No. 134
c. 132.411	ad. 2002 No. 348
c. 132.511	ad. 2002 No. 348
c. 132.611	ad. 2002 No. 348
c. 132.612	ad. 2002 No. 348
c. 132.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 132.712	ad. 2005 No. 134
Part 134	
Part 134	ad. 1999 No. 76
c. 134.111	ad. 1999 No. 76
c. 134.210	am. 2005 No. 240 ad. 2007 No. 257
c. 134.211	ad. 1999 No. 76 rep. 2006 No. 250
c. 134.212	ad. 1999 No. 76 am. 2002 No. 213
c. 134.213	ad. 1999 No. 76
c. 134.214	ad. 1999 No. 76 am. 2006 No. 159
c. 134.215	ad. 1999 No. 76 am. 2002 No. 86; 2003 No. 122; 2005 No. 240
c. 134.216	ad. 1999 No. 76
c. 134.221	ad. 1999 No. 76
c. 134.222	ad. 1999 No. 76 am. 2006 No. 250
c. 134.222A	ad. 2002 No. 86 am. 2003 No. 122; 2005 No. 240
c. 134.222B	ad. 2002 No. 86 am. 2005 No. 240
c. 134.222C	ad. 2002 No. 213 am. 2006 No. 250
c. 134.222D	ad. 2006 No. 250
c. 134.222E	ad. 2006 No. 250
c. 134.222F	ad. 2006 No. 250
c. 134.223	ad. 1999 No. 76
c. 134.224	ad. 1999 No. 76
c. 134.225	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 134.226	ad. 1999 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 134.227	ad. 1999 No. 76 am. 2000 No. 62
c. 134.228	ad. 1999 No. 76 am. 2006 No. 250
c. 134.229	ad. 2005 No. 134
c. 134.311	ad. 1999 No. 76
c. 134.321	ad. 1999 No. 76
c. 134.322	ad. 1999 No. 76
c. 134.323	ad. 1999 No. 76
c. 134.324	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 134.325	ad. 1999 No. 76 am. 2000 No. 62
c. 134.326	ad. 2005 No. 134
c. 134.411	ad. 1999 No. 76
c. 134.511	ad. 1999 No. 76
c. 134.611	ad. 1999 No. 76
c. 134.612	ad. 1999 No. 76
c. 134.613	ad. 2001 No. 239
c. 134.711	ad. 1999 No. 76 rs. 2005 No. 134
c. 134.712	ad. 2005 No. 134
Part 135	
Part 135	ad. 1997 No. 263
c. 135.111	ad. 1997 No. 263
c. 135.211	ad. 1997 No. 263
c. 135.221	ad. 1997 No. 263
c. 135.222	ad. 1997 No. 263
c. 135.223	ad. 1997 No. 263
c. 135.224	ad. 1997 No. 263
c. 135.225	ad. 1997 No. 263
c. 135.226	ad. 1997 No. 263 am. 2004 No. 93
c. 135.227	ad. 1997 No. 263
c. 135.228	ad. 1997 No. 263 am. 2000 No. 62
c. 135.229	ad. 1997 No. 263
c. 135.311	ad. 1997 No. 263 am. 1999 No. 132
c. 135.321	ad. 1997 No. 263

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 135.322	ad. 1997 No. 263
c. 135.323	ad. 1997 No. 263
c. 135.324	ad. 1997 No. 263 am. 2004 No. 93
c. 135.325	ad. 1997 No. 263 am. 2000 No. 62
c. 135.411	ad. 1997 No. 263
c. 135.511	ad. 1997 No. 263
c. 135.611	ad. 1997 No. 263
c. 135.612	ad. 1997 No. 263
c. 135.613	ad. 2002 No. 86
c. 135.711	ad. 1997 No. 263
Part 136	
Part 136	ad. 1999 No. 76
c. 136.111	ad. 1999 No. 76 am. 2005 No. 240
c. 136.210	ad. 2007 No. 257
c. 136.211	ad. 1999 No. 76 rep. 2006 No. 250
c. 136.212	ad. 1999 No. 76
c. 136.213	ad. 1999 No. 76 am. 2002 No. 86; 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 136.214	ad. 2004 No. 131
c. 136.221	ad. 1999 No. 76
c. 136.222	ad. 1999 No. 76 am. 2006 No. 159 rs. 2006 No. 250
c. 136.223	ad. 1999 No. 76
c. 136.223A	ad. 2002 No. 86 am. 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 136.223B	ad. 2002 No. 86 am. 2005 No. 240
c. 136.224	ad. 1999 No. 76
c. 136.225	ad. 1999 No. 76
c. 136.226	ad. 1999 No. 76
c. 136.227	ad. 1999 No. 76
c. 136.228	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 136.229	ad. 1999 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 136.230	ad. 1999 No. 76 am. 2000 No. 62
c. 136.231	ad. 1999 No. 76 am. 2006 No. 250
c. 136.232	ad. 2005 No. 134
c. 136.233	ad. 2005 No. 240
c. 136.311	ad. 1999 No. 76
c. 136.312	ad. 2004 No. 131
c. 136.321	ad. 1999 No. 76
c. 136.322	ad. 1999 No. 76
c. 136.323	ad. 1999 No. 76
c. 136.324	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 136.325	ad. 1999 No. 76 am. 2000 No. 62
c. 136.326	ad. 2005 No. 134
c. 136.411	ad. 1999 No. 76
c. 136.511	ad. 1999 No. 76
c. 136.611	ad. 1999 No. 76
c. 136.612	ad. 1999 No. 76
c. 136.613	ad. 2001 No. 239
c. 136.711	ad. 1999 No. 76 rs. 2005 No. 134
c. 136.712	ad. 2005 No. 134
Part 137	
Part 137	ad. 1999 No. 76
c. 137.111	ad. 1999 No. 76 am. 2005 No. 240
Note 2 to c. 137.111	rs. 2004 No. 131
Note 3 to c. 137.111	ad. 2004 No. 131
c. 137.210	ad. 2007 No. 257
c. 137.211	ad. 1999 No. 76 rs. 2004 No. 131 rep. 2006 No. 250
c. 137.212	ad. 1999 No. 76 rep. 2006 No. 250
c. 137.213	ad. 1999 No. 76 rs. 2004 No. 131 am. 2006 No. 159 rs. 2006 No. 250

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 137.214	ad. 1999 No. 76 am. 2002 No. 86; 2003 No. 122; 2004 No. 131; 2005 No. 240; 2006 No. 250; 2009 No. 144
c. 137.215	ad. 2004 No. 131 rs. 2006 No. 250
c. 137.215A	ad. 2006 No. 250
c. 137.216	ad. 2004 No. 131
c. 137.221	ad. 1999 No. 76 rs. 2004 No. 131 am. 2009 No. 144
c. 137.221A	ad. 2002 No. 86 am. 2003 No. 122; 2004 No. 131; 2005 No. 240; 2006 No. 250; 2009 No. 144
c. 137.221B	ad. 2002 No. 86 am. 2005 No. 240
c. 137.222	ad. 1999 No. 76 rs. 2004 No. 131 am. 2009 No. 144
c. 137.223	ad. 1999 No. 76
c. 137.224	ad. 1999 No. 76 am. 2006 No. 250
c. 137.225	ad. 1999 No. 76 rs. 2004 No. 131
c. 137.226	ad. 1999 No. 76
c. 137.227	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 137.228	ad. 1999 No. 76 am. 2004 No. 131
c. 137.229	ad. 1999 No. 76 am. 2000 No. 62
c. 137.230	ad. 1999 No. 76 am. 2006 No. 250
c. 137.231	ad. 2005 No. 134
c. 137.232	ad. 2005 No. 240
c. 137.311	ad. 1999 No. 76
c. 137.312	ad. 2004 No. 131
c. 137.321	ad. 1999 No. 76
c. 137.322	ad. 1999 No. 76 rs. 2004 No. 131
c. 137.323	ad. 1999 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 137.324	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 137.325	ad. 1999 No. 76 am. 2000 No. 62
c. 137.326	ad. 2005 No. 134
c. 137.411	ad. 1999 No. 76 rs. 2004 No. 131
c. 137.412	ad. 2004 No. 131
c. 137.511	ad. 1999 No. 76
c. 137.611	ad. 1999 No. 76
c. 137.612	ad. 1999 No. 76
c. 137.613	ad. 2001 No. 239
c. 137.711	ad. 1999 No. 76 rs. 2005 No. 134
c. 137.712	ad. 2005 No. 134
Part 138	
Part 138	ad. 1999 No. 76
c. 138.111	ad. 1999 No. 76 am. 2005 No. 240
c. 138.210	ad. 2007 No. 257
c. 138.211	ad. 1999 No. 76 am. 2005 No. 240; 2006 Nos. 250 and 354; 2009 No. 144
c. 138.212	ad. 1999 No. 76
c. 138.213	ad. 1999 No. 76 rep. 2004 No. 93
c. 138.214	ad. 1999 No. 76 rep. 2006 No. 250
c. 138.215	ad. 1999 No. 76
c. 138.216	ad. 1999 No. 76 am. 2002 No. 86; 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 138.217	ad. 2001 No. 27 rep. 2006 No. 250
c. 138.221	ad. 1999 No. 76
c. 138.221A	ad. 2005 No. 240 am. 2006 No. 250 rep. 2007 No. 257
c. 138.222	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 138.223	ad. 1999 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 138.224	ad. 1999 No. 76 am. 2006 No. 159 rs. 2006 No. 250
c. 138.225	ad. 1999 No. 76 am. 2009 No. 144
c. 138.225A	ad. 2002 No. 86 am. 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 138.225B	ad. 2002 No. 86 am. 2005 No. 240
c. 138.226	ad. 1999 No. 76
c. 138.227	ad. 1999 No. 76
c. 138.228	ad. 1999 No. 76 rs. 2001 No. 27 am. 2002 No. 86; 2009 No. 144
c. 138.229	ad. 1999 No. 76
c. 138.230	ad. 1999 No. 76
c. 138.231	ad. 1999 No. 76
c. 138.232	ad. 1999 No. 76 am. 2000 No. 62
c. 138.233	ad. 1999 No. 76 am. 2006 No. 250
c. 138.234	ad. 2005 No. 134
c. 138.311	ad. 1999 No. 76
c. 138.312	ad. 1999 No. 76
c. 138.313	ad. 1999 No. 76 rep. 2004 No. 93
c. 138.321	ad. 1999 No. 76
c. 138.322	ad. 1999 No. 76
c. 138.323	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 138.324	ad. 1999 No. 76
c. 138.325	ad. 1999 No. 76
c. 138.326	ad. 1999 No. 76 am. 2000 No. 62
c. 138.327	ad. 2005 No. 134
c. 138.411	ad. 1999 No. 76
c. 138.511	ad. 1999 No. 76
c. 138.611	ad. 1999 No. 76
c. 138.612	ad. 1999 No. 76
c. 138.613	ad. 2001 No. 239

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 138.711	ad. 1999 No. 76 rs. 2005 No. 134
c. 138.712	ad. 2005 No. 134
Part 139	
Heading to Part 139	rs. 2001 No. 86
Part 139	ad. 1999 No. 76
c. 139.111	ad. 1999 No. 76 am. 2005 No. 240; 2006 No. 250
c. 139.211	ad. 1999 No. 76 am. 2005 No. 240 rs. 2006 No. 159
c. 139.211A	ad. 2006 No. 159 am. 2009 No. 144
c. 139.212	ad. 1999 No. 76
c. 139.213	ad. 1999 No. 76
c. 139.214	ad. 1999 No. 76 rep. 2004 No. 93
c. 139.215	ad. 1999 No. 76
c. 139.216	ad. 1999 No. 76
c. 139.217	ad. 1999 No. 76 am. 2002 No. 86; 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 139.218	ad. 1999 No. 76 am. 2009 No. 144
c. 139.221	ad. 1999 No. 76
c. 139.222	ad. 1999 No. 76
c. 139.223	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 139.224	ad. 1999 No. 76
c. 139.225	ad. 1999 No. 76 am. 2006 No. 159
c. 139.225A	ad. 2002 No. 86 am. 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 139.225B	ad. 2002 No. 86 am. 2005 No. 240
c. 139.226	ad. 1999 No. 76 am. 2001 No. 27; 2006 No. 250
c. 139.227	ad. 1999 No. 76
c. 139.228	ad. 1999 No. 76 am. 2002 No. 86; 2009 No. 144
c. 139.229	ad. 1999 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 139.230	ad. 1999 No. 76
c. 139.231	ad. 1999 No. 76
c. 139.232	ad. 1999 No. 76
c. 139.233	ad. 1999 No. 76 am. 2000 No. 62
c. 139.234	ad. 1999 No. 76 am. 2006 No. 250
c. 139.235	ad. 2005 No. 134
c. 139.311	ad. 1999 No. 76
c. 139.312	ad. 1999 No. 76
c. 139.313	ad. 1999 No. 76 rep. 2004 No. 93
c. 139.321	ad. 1999 No. 76
c. 139.322	ad. 1999 No. 76
c. 139.323	ad. 1999 No. 76 am. 2004 No. 93 rep. 2007 No. 257
c. 139.324	ad. 1999 No. 76
c. 139.325	ad. 1999 No. 76
c. 139.326	ad. 1999 No. 76 am. 2000 No. 62
c. 139.327	ad. 2005 No. 134
c. 139.411	ad. 1999 No. 76
c. 139.511	ad. 1999 No. 76
c. 139.611	ad. 1999 No. 76
c. 139.612	ad. 1999 No. 76
c. 139.613	ad. 2001 No. 239
c. 139.711	ad. 1999 No. 76 rs. 2005 No. 134
c. 139.712	ad. 2005 No. 134
Part 143	
Part 143	ad. Act No. 5, 2003
Div. 143.1	rs. 2007 No. 274
Note to Div. 143.1	rep. 2007 No. 274
c. 143.111	ad. 2007 No. 274
Note to c. 143.111	am. 2009 No. 144
c. 143.211	ad. Act No. 5, 2003 am. 2006 No. 10
c. 143.212	ad. Act No. 5, 2003 am. 2009 Nos. 116 and 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 143.213	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 143.221	ad. Act No. 5, 2003
c. 143.222	ad. Act No. 5, 2003 rs. 2009 No. 116
c. 143.222A.....	ad. 2009 No. 116
c. 143.223	ad. Act No. 5, 2003 rs. 2006 No. 10 rep. 2009 No. 116
c. 143.224	ad. Act No. 5, 2003 rs. 2007 No. 314
c. 143.225	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 143.226	ad. Act No. 5, 2003
c. 143.227	ad. Act No. 5, 2003
c. 143.228	ad. Act No. 5, 2003 am. 2004 No. 93
c. 143.229	ad. Act No. 5, 2003 rs. 2006 No. 10 am. 2007 No. 314
c. 143.230	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 143.231	ad. Act No. 5, 2003
c. 143.232	ad. Act No. 5, 2003
c. 143.233	ad. 2005 No. 134
c. 143.311	ad. Act No. 5, 2003
c. 143.312	ad. Act No. 5, 2003 rs. 2004 No. 93
c. 143.321	ad. Act No. 5, 2003
c. 143.322	ad. Act No. 5, 2003 am. 2004 No. 93
c. 143.323	ad. Act No. 5, 2003 rs. 2007 No. 314
c. 143.324	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 143.325	ad. Act No. 5, 2003
c. 143.326	ad. Act No. 5, 2003
c. 143.327	ad. Act No. 5, 2003 am. 2004 No. 93
c. 143.328	ad. Act No. 5, 2003
c. 143.329	ad. Act No. 5, 2003
c. 143.330	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Div. 143.4	rs. 2006 No. 10
c. 143.411	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 143.412	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 143.511	ad. Act No. 5, 2003
c. 143.611	ad. Act No. 5, 2003
c. 143.612	ad. Act No. 5, 2003
c. 143.711	ad. Act No. 5, 2003 rs. 2005 No. 134
c. 143.712	ad. 2005 No. 134
Part 150	rep. 2000 No. 62
cc. 150.211, 150.212.....	rep. 2000 No. 62
c. 150.221	am. 1995 No. 268 rep. 2000 No. 62
c. 150.222	am. 1996 No. 75 rep. 2000 No. 62
c. 150.223	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2000 No. 62
c. 150.224	am. 1999 No. 81 rep. 2000 No. 62
c. 150.226	rep. 2000 No. 62
c. 150.311	am. 1999 No. 81 rep. 2000 No. 62
c. 150.321	am. 1999 No. 81 rep. 2000 No. 62
c. 150.322	am. 1995 No. 268 rep. 2000 No. 62
c. 150.323	am. 1996 No. 75 rep. 2000 No. 62
c. 150.324	rep. 2000 No. 62
c. 150.325	am. 1999 No. 81 rep. 2000 No. 62
c. 150.411	rep. 2000 No. 62
Note to c. 150.411.....	rs. 1997 No. 91 rep. 2000 No. 62
c. 150.511	am. 1996 No. 211 rep. 2000 No. 62
cc. 150.611, 150.612.....	rep. 2000 No. 62
c. 150.711	rep. 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 151	
Part 151	rs. 2005 No. 240
Div. 151.1	rs. 2002 No. 348; 2005 No. 240
Div. 151.2	rs. 2005 No. 240
c. 151.211	rs. 2000 No. 62; 2005 No. 240
c. 151.212	ad. 2005 No. 240
c. 151.221	am. 1995 No. 268 rs. 2002 No. 348; 2005 No. 240; 2007 No. 314
c. 151.222	am. 1996 No. 75 rs. 2005 No. 240
c. 151.223	am. 2004 No. 93 rs. 2005 No. 240
c. 151.224	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rs. 2002 No. 348; 2005 No. 240
c. 151.225	am. 1999 No. 81; 2000 No. 62 rs. 2005 No. 240 am. 2005 No. 339; 2007 No. 314
c. 151.226	ad. 2005 No. 134 rs. 2005 No. 240 am. 2005 No. 339; 2007 No. 314
c. 151.227	ad. 2005 No. 240 am. 2005 No. 339; 2007 No. 314
c. 151.227A	ad. 2005 No. 339
c. 151.227B	ad. 2005 No. 339
c. 151.228	ad. 2005 No. 240
c. 151.229	ad. 2005 No. 240
c. 151.229A	ad. 2005 No. 240
c. 151.229B	ad. 2005 No. 240
c. 151.229C	ad. 2005 No. 240
Div. 151.3	rs. 2005 No. 240
c. 151.311	am. 1999 No. 81 rs. 2005 No. 240
c. 151.321	am. 1999 No. 81 rs. 2005 No. 240
c. 151.322	am. 1995 No. 322 rs. 2002 No. 348; 2005 No. 240; 2007 No. 314
c. 151.323	am. 1996 No. 75 rs. 2005 No. 240
c. 151.324	am. 2004 No. 93 rs. 2005 No. 240
c. 151.325	am. 1999 No. 81; 2000 No. 62 rs. 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 151.326	ad. 2005 No. 134 rs. 2005 No. 240
c. 151.327	ad. 2005 No. 240
c. 151.328	ad. 2005 No. 240
c. 151.329	ad. 2005 No. 240
Div. 151.4	rs. 2005 No. 240
c. 151.411	rs. 2005 No. 240
Note to c. 151.411	rs. 1997 No. 91 rep. 2005 No. 240
c. 151.412	ad. 2005 No. 240
Div. 151.5	rs. 2005 No. 240
c. 151.511	am. 1996 No. 211 rs. 2005 No. 240
Div. 151.6	rs. 2005 No. 240
c. 151.611	rs. 2005 No. 240
c. 151.612	am. 2000 No. 62 rep. 2005 No. 240
Div. 151.7	rs. 2005 No. 240
c. 151.711	rs. 2005 Nos. 134 and 240
c. 151.712	ad. 2005 No. 134 rs. 2005 No. 240
Part 152	rep. 2000 No. 62
Div. 152.1	rs. 1998 No. 284 rep. 2000 No. 62
c. 152.111	rs. 1998 No. 284 rep. 2000 No. 62
c. 152.211	am. 1996 No. 276; 1998 No. 284 rep. 2000 No. 62
c. 152.212	ad. 1998 No. 284 rep. 2000 No. 62
c. 152.221	rep. 2000 No. 62
c. 152.222	am. 1995 No. 268; 1998 No. 284 rep. 2000 No. 62
c. 152.223	am. 1995 No. 268 rep. 2000 No. 62
c. 152.224	am. 1996 No. 75 rep. 2000 No. 62
c. 152.225	rep. 2000 No. 62
c. 152.226	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2000 No. 62
c. 152.227	am. 1999 No. 81 rep. 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 152.228	rep. 2000 No. 62
c. 152.311	am. 1999 No. 81 rep. 2000 No. 62
c. 152.321	am. 1999 No. 81 rep. 2000 No. 62
c. 152.322	am. 1995 No. 268 rep. 2000 No. 62
c. 152.323	am. 1996 No. 75 rep. 2000 No. 62
c. 152.324	rep. 2000 No. 62
c. 152.325	am. 1999 No. 81 rep. 2000 No. 62
c. 152.411	rep. 2000 No. 62
Note to c. 152.411	rs. 1997 No. 91 rep. 2000 No. 62
c. 152.511	am. 1996 No. 276 rep. 2000 No. 62
c. 152.611	rep. 2000 No. 62
c. 152.612	am. 1999 No. 81 rep. 2000 No. 62
c. 152.71 Renumbered c. 152.711 ..	1999 No. 81
c. 152.711	rep. 2000 No. 62
Part 155	
Heading to Part 155	rs. 1996 No. 211
Note to Div. 155.1	rs. 1996 No. 211
c. 155.211	am. 1994 No. 280; 1995 No. 38 rs. 1996 No. 211 am. 1999 No. 68 (as am. by 1999 No. 81)
c. 155.212	ad. 1996 No. 211 am. 1999 Nos. 68 and 81; 2002 No. 86
Note to c. 155.212	ad. 1999 No. 68
c. 155.222	ad. 2005 No. 134
c. 155.511	rs. 1996 No. 211 am. 1999 Nos. 68 and 81; 2001 No. 162
c. 155.711	rs. 2001 No. 162; 2005 No. 134
c. 155.712	ad. 2005 No. 134
Part 156	rep. 1996 No. 211
c. 156.211	rs. 1994 No. 280 rep. 1996 No. 211
c. 156.221	rep. 1996 No. 211
cc. 156.411, 156.412	rep. 1996 No. 211

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 156.511	rep. 1996 No. 211
c. 156.711	rep. 1996 No. 211
Part 157	
Heading to Part 157	rs. 1996 No. 211
Note to Div. 157.1	rs. 1996 No. 211
c. 157.211	rs. 1994 No. 280; 1996 No. 211 am. 1999 No. 68 (as am. by 1999 No. 81)
c. 157.212	rs. 1996 No. 211 am. 2002 No. 86
c. 157.213	rs. 1996 No. 211
c. 157.222	ad. 2005 No. 134
c. 157.711	rs. 2001 No. 162; 2005 No. 134
c. 157.712	ad. 2005 No. 134
Part 159	
Heading to Part 159	rs. 1996 No. 211
Note to Div. 159.1	rs. 1996 No. 211
c. 159.211	rs. 1994 No. 280
c. 159.212	am. 1996 No. 211
c. 159.212A	ad. 1994 No. 280
c. 159.221	am. 1996 No. 75
c. 159.222	ad. 2005 No. 134
c. 159.711	rs. 2005 No. 134
c. 159.712	ad. 2005 No. 134
Part 173 relocated after Part 165 ...	2003 No. 239
Part 160	
Part 160	ad. 2002 No. 348
c. 160.211	ad. 2002 No. 348
c. 160.212	ad. 2002 No. 348 am. 2009 No. 144
c. 160.213	ad. 2002 No. 348
c. 160.214	ad. 2002 No. 348 am. 2009 No. 144
c. 160.215	ad. 2002 No. 348
c. 160.216	ad. 2002 No. 348
c. 160.217	ad. 2002 No. 348
c. 160.218	ad. 2002 No. 348 am. 2009 No. 144
c. 160.219	ad. 2002 No. 348
c. 160.219A	ad. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 160.219B.....	ad. 2002 No. 348
c. 160.219C.....	ad. 2002 No. 348
c. 160.221.....	ad. 2002 No. 348
c. 160.222.....	ad. 2002 No. 348 rs. 2007 No. 314
c. 160.223.....	ad. 2002 No. 348
c. 160.224.....	ad. 2002 No. 348 am. 2007 No. 314
c. 160.225.....	ad. 2002 No. 348
c. 160.226.....	ad. 2005 No. 134
c. 160.311.....	ad. 2002 No. 348 rs. 2008 No. 166
c. 160.321.....	ad. 2002 No. 348
c. 160.322.....	ad. 2002 No. 348 rs. 2007 No. 314
c. 160.323.....	ad. 2002 No. 348
c. 160.324.....	ad. 2002 No. 348
c. 160.325.....	ad. 2005 No. 134
c. 160.411.....	ad. 2002 No. 348
c. 160.511.....	ad. 2002 No. 348
c. 160.611.....	ad. 2002 No. 348
c. 160.612.....	ad. 2002 No. 348
c. 160.711.....	ad. 2002 No. 348 rs. 2005 No. 134
c. 160.712.....	ad. 2005 No. 134
Part 161	
Part 161.....	ad. 2002 No. 348
c. 161.111.....	ad. 2002 No. 348
c. 161.211.....	ad. 2002 No. 348
c. 161.212.....	ad. 2002 No. 348
c. 161.213.....	ad. 2002 No. 348 am. 2009 No. 144
c. 161.214.....	ad. 2002 No. 348
c. 161.215.....	ad. 2002 No. 348
c. 161.216.....	ad. 2002 No. 348 am. 2009 No. 144
c. 161.217.....	ad. 2002 No. 348
c. 161.218.....	ad. 2002 No. 348
c. 161.219.....	ad. 2002 No. 348
c. 161.219A.....	ad. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 161.221	ad. 2002 No. 348
c. 161.222	ad. 2002 No. 348 rs. 2007 No. 314
c. 161.223	ad. 2002 No. 348
c. 161.224	ad. 2002 No. 348 am. 2007 No. 314
c. 161.225	ad. 2002 No. 348
c. 161.226	ad. 2005 No. 134
c. 161.311	ad. 2002 No. 348 rs. 2008 No. 166
c. 161.321	ad. 2002 No. 348
c. 161.322	ad. 2002 No. 348 rs. 2007 No. 314
c. 161.323	ad. 2002 No. 348
c. 161.324	ad. 2002 No. 348
c. 161.325	ad. 2005 No. 134
c. 161.411	ad. 2002 No. 348
c. 161.511	ad. 2002 No. 348
c. 161.611	ad. 2002 No. 348
c. 161.612	ad. 2002 No. 348
c. 161.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 161.712	ad. 2005 No. 134
Part 162	
Part 162	ad. 2002 No. 348
c. 162.111	ad. 2002 No. 348
c. 162.211	ad. 2002 No. 348
c. 162.212	ad. 2002 No. 348 am. 2009 No. 144
c. 162.213	ad. 2002 No. 348
c. 162.214	ad. 2002 No. 348
c. 162.215	ad. 2002 No. 348
c. 162.216	ad. 2002 No. 348 am. 2009 No. 144
c. 162.217	ad. 2002 No. 348
c. 162.218	ad. 2002 No. 348 am. 2009 No. 144
c. 162.219	ad. 2002 No. 348
c. 162.221	ad. 2002 No. 348
c. 162.222	ad. 2002 No. 348 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 162.223	ad. 2002 No. 348 rs. 2007 No. 314
c. 162.224	ad. 2002 No. 348
c. 162.225	ad. 2002 No. 348 am. 2007 No. 314
c. 162.226	ad. 2002 No. 348
c. 162.227	ad. 2005 No. 134
c. 162.311	ad. 2002 No. 348 rs. 2008 No. 166
c. 162.321	ad. 2002 No. 348
c. 162.322	ad. 2002 No. 348 rs. 2007 No. 314
c. 162.323	ad. 2002 No. 348
c. 162.324	ad. 2002 No. 348
c. 162.325	ad. 2005 No. 134
c. 162.411	ad. 2002 No. 348
c. 162.511	ad. 2002 No. 348
c. 162.611	ad. 2002 No. 348
c. 162.612	ad. 2002 No. 348
c. 162.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 162.712	ad. 2005 No. 134
Part 163	
Part 163	ad. 2002 No. 348
Div. 163.1	rs. 2006 No. 123
c. 163.111	rs. 2006 No. 123
c. 163.211	ad. 2002 No. 348
c. 163.212	ad. 2002 No. 348 am. 2006 No. 123
c. 163.213	ad. 2002 No. 348 am. 2009 No. 144
c. 163.214	ad. 2002 No. 348
c. 163.215	ad. 2002 No. 348
c. 163.216	ad. 2002 No. 348 am. 2009 No. 144
c. 163.217	ad. 2002 No. 348
c. 163.218	ad. 2002 No. 348
c. 163.219	ad. 2002 No. 348
c. 163.221	ad. 2002 No. 348
c. 163.222	ad. 2002 No. 348 rs. 2008 No. 166

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 163.223	ad. 2002 No. 348 rs. 2007 No. 314
c. 163.224	ad. 2002 No. 348
c. 163.225	ad. 2002 No. 348 am. 2007 No. 314
c. 163.226	ad. 2002 No. 348
c. 163.227	ad. 2005 No. 134
c. 163.311	ad. 2002 No. 348 rs. 2008 No. 166
c. 163.321	ad. 2002 No. 348
c. 163.322	ad. 2002 No. 348 rs. 2007 No. 314
c. 163.323	ad. 2002 No. 348
c. 163.324	ad. 2002 No. 348
c. 163.325	ad. 2005 No. 134
c. 163.411	ad. 2002 No. 348
c. 163.511	ad. 2002 No. 348
c. 163.611	ad. 2002 No. 348
c. 163.612	ad. 2002 No. 348
c. 163.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 163.712	ad. 2005 No. 134
Part 164	
Part 164	ad. 2002 No. 348
c. 164.111	ad. 2002 No. 348
c. 164.211	ad. 2002 No. 348
c. 164.212	ad. 2002 No. 348
c. 164.213	ad. 2002 No. 348 am. 2009 No. 144
c. 164.214	ad. 2002 No. 348
c. 164.215	ad. 2002 No. 348 am. 2009 No. 144
c. 164.216	ad. 2002 No. 348
c. 164.217	ad. 2002 No. 348
c. 164.218	ad. 2002 No. 348
c. 164.221	ad. 2002 No. 348
c. 164.222	ad. 2002 No. 348 rs. 2008 No. 166
c. 164.223	ad. 2002 No. 348 rs. 2007 No. 314
c. 164.224	ad. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 164.225	ad. 2002 No. 348 am. 2007 No. 314
c. 164.226	ad. 2002 No. 348
c. 164.227	ad. 2005 No. 134
c. 164.311	ad. 2002 No. 348 rs. 2008 No. 166
c. 164.321	ad. 2002 No. 348
c. 164.322	ad. 2002 No. 348 rs. 2007 No. 314
c. 164.323	ad. 2002 No. 348
c. 164.324	ad. 2002 No. 348
c. 164.325	ad. 2005 No. 134
c. 164.411	ad. 2002 No. 348
c. 164.511	ad. 2002 No. 348
c. 164.611	ad. 2002 No. 348
c. 164.612	ad. 2002 No. 348
c. 164.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 164.712	ad. 2005 No. 134
Part 165	
Part 165	ad. 2002 No. 348
c. 165.111	ad. 2002 No. 348
c. 165.211	ad. 2002 No. 348
c. 165.212	ad. 2002 No. 348 am. 2009 No. 144
c. 165.213	ad. 2002 No. 348
c. 165.214	ad. 2002 No. 348
c. 165.215	ad. 2002 No. 348 am. 2009 No. 144
c. 165.216	ad. 2002 No. 348 am. 2009 No. 144
c. 165.217	ad. 2002 No. 348
c. 165.221	ad. 2002 No. 348
c. 165.222	ad. 2002 No. 348 am. 2009 No. 144
c. 165.223	ad. 2002 No. 348 rs. 2008 No. 166
c. 165.224	ad. 2002 No. 348
c. 165.225	ad. 2002 No. 348 rs. 2007 No. 314
c. 165.226	ad. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 165.227	ad. 2002 No. 348 am. 2007 No. 314
c. 165.228	ad. 2002 No. 348
c. 165.229	ad. 2005 No. 134
c. 165.311	ad. 2002 No. 348 rs. 2008 No. 166
c. 165.321	ad. 2002 No. 348
c. 165.322	ad. 2002 No. 348 rs. 2007 No. 314
c. 165.323	ad. 2002 No. 348
c. 165.324	ad. 2002 No. 348
c. 165.325	ad. 2005 No. 134
c. 165.411	ad. 2002 No. 348
c. 165.511	ad. 2002 No. 348
c. 165.611	ad. 2002 No. 348
c. 165.612	ad. 2002 No. 348
c. 165.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 165.712	ad. 2005 No. 134
Part 173	
Part 173	ad. Act No. 5, 2003
Note to Div. 173.1	am. 2009 No. 144
c. 173.211	ad. Act No. 5, 2003
c. 173.212	ad. Act No. 5, 2003 am. 2009 No. 144
c. 173.213	ad. Act No. 5, 2003
c. 173.221	ad. Act No. 5, 2003
c. 173.222	ad. Act No. 5, 2003 rs. 2009 No. 116
c. 173.223	ad. Act No. 5, 2003 rep. 2009 No. 116
c. 173.224	ad. Act No. 5, 2003 rs. 2007 No. 314
c. 173.225	ad. Act No. 5, 2003
c. 173.226	ad. Act No. 5, 2003 am. 2007 No. 314
c. 173.227	ad. Act No. 5, 2003
c. 173.228	ad. Act No. 5, 2003
c. 173.229	ad. Act No. 5, 2003
c. 173.230	ad. 2005 No. 135
c. 173.311	ad. Act No. 5, 2003

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 173.312	ad. Act No. 5, 2003 rs. 2009 No. 116
c. 173.321	ad. Act No. 5, 2003 rs. 2004 No. 93
c. 173.322	ad. Act No. 5, 2003 rs. 2004 No. 93; 2009 No. 116
c. 173.322A	ad. 2004 No. 93
c. 173.323	ad. Act No. 5, 2003 rs. 2004 No. 93; 2007 No. 314
c. 173.324	ad. Act No. 5, 2003 rs. 2004 No. 93
c. 173.325	ad. Act No. 5, 2003
c. 173.326	ad. Act No. 5, 2003
c. 173.327	ad. 2004 No. 93
c. 173.328	ad. 2005 No. 134
c. 173.411	ad. Act No. 5, 2003 am. 2004 No. 93
c. 173.412	ad. 2004 No. 93
c. 173.511	ad. Act No. 5, 2003 am. 2004 No. 93
c. 173.512	ad. 2004 No. 93
c. 173.611	ad. Act No. 5, 2003
c. 173.612	ad. Act No. 5, 2003
c. 173.711	ad. Act No. 5, 2003 rs. 2005 No. 134
c. 173.712	ad. 2005 No. 134
Part 175	
Part 175	ad. 2007 No. 257
c. 175.111	ad. 2007 No. 257
Note 1 to c. 175.111	rs. 2008 No. 56; 2009 No. 84
Note 2 to c. 175.111	rs. 2008 No. 56
Note 6 to c. 175.111	rs. 2008 No. 56 rep. 2009 No. 144
Note to Div. 175.2	am. 2009 No. 144
c. 175.211	ad. 2007 No. 257 am. 2009 No. 84
c. 175.212	ad. 2007 No. 257
c. 175.213	ad. 2007 No. 257 am. 2008 No. 56 rs. 2009 No. 144
c. 175.221	ad. 2007 No. 257

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 175.222	ad. 2007 No. 257
c. 175.223	ad. 2007 No. 257 rs. 2007 No. 314
c. 175.224	ad. 2007 No. 257
c. 175.225	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 175.226	ad. 2007 No. 257
c. 175.227	ad. 2007 No. 257 am. 2009 No. 144
c. 175.228	ad. 2007 No. 257
c. 175.229	ad. 2007 No. 257
Note to Div. 175.3	am. 2009 No. 144
c. 175.311	ad. 2007 No. 257 rs. 2009 No. 144
c. 175.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 175.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 175.323	ad. 2007 No. 257
c. 175.324	ad. 2007 No. 257
c. 175.325	ad. 2007 No. 257
c. 175.411	ad. 2007 No. 257
c. 175.412	ad. 2007 No. 257
c. 175.511	ad. 2007 No. 257
c. 175.611	ad. 2007 No. 257
c. 175.711	ad. 2007 No. 257
c. 175.712	ad. 2007 No. 257
Part 176	
Part 176	ad. 2007 No. 257
c. 176.111	ad. 2007 No. 257
Note 1 to c. 176.111	rs. 2008 No. 56; 2009 No. 84
Note 2 to c. 176.111	rs. 2008 No. 56
Note 6 to c. 176.111	rs. 2008 No. 56 rep. 2009 No. 144
Note to Div. 176.2	am. 2009 No. 144
c. 176.211	ad. 2007 No. 257 am. 2009 No. 84
c. 176.212	ad. 2007 No. 257
c. 176.213	ad. 2007 No. 257 am. 2008 No. 56 rs. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 176.221	ad. 2007 No. 257
c. 176.222	ad. 2007 No. 257 am. 2009 No. 144
c. 176.223	ad. 2007 No. 257
c. 176.224	ad. 2007 No. 257 rs. 2007 No. 314
c. 176.225	ad. 2007 No. 257
c. 176.226	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 176.227	ad. 2007 No. 257
c. 176.228	ad. 2007 No. 257 am. 2009 No. 144
c. 175.229	ad. 2007 No. 257
Note to Div. 176.3	am. 2009 No. 144
c. 176.230	ad. 2007 No. 257
c. 176.311	ad. 2007 No. 257 rs. 2009 No. 144
c. 176.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 176.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 176.323	ad. 2007 No. 257
c. 176.324	ad. 2007 No. 257
c. 176.325	ad. 2007 No. 257
c. 176.411	ad. 2007 No. 257
c. 176.412	ad. 2007 No. 257
c. 176.511	ad. 2007 No. 257
c. 176.611	ad. 2007 No. 257
c. 176.711	ad. 2007 No. 257
c. 176.712	ad. 2007 No. 257
Part 200	
Note to Div. 200.1	rs. 1997 No. 137
c. 200.111	ad. 1997 No. 137 am. 1999 No. 81; 2008 No. 33
Note to Div. 200.2	rs. 1997 No. 137
c. 200.211	rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81; 2008 No. 33
c. 200.212	rep. 1997 No. 137 ad. Act No. 128, 2001 rep. 2008 No. 168
c. 200.221	am. 1997 No. 137; 1999 No. 132

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 200.225	am. 1999 No. 81
c. 200.226	am. 1995 No. 268 rs. 2007 No. 314
c. 200.227	am. 1996 No. 75; 1999 No. 81
c. 200.228	am. 2000 No. 62
c. 200.229	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
Note to Div. 2003	rs. 1997 No. 137
c. 200.311	rs. 1997 No. 137 am. 1999 No. 81; 2008 No. 33
c. 200.321	rs. 1997 No. 137 am. 1999 No. 81; 2008 No. 33
c. 200.322	am. 1999 No. 81; 2000 No. 62
c. 200.323	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 200.511	am. 1996 No. 211
c. 200.711	rs. 2005 No. 134
c. 200.712	ad. 2005 No. 134
Part 201	
Note to Div. 201.1	rs. 1997 No. 137
c. 201.111	ad. 1997 No. 137 am. 1999 No. 812; 2008 No. 33
Note to Div. 201.2	rs. 1997 No. 137
c. 201.211	rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81; 2008 No. 33
c. 201.212	rep. 1997 No. 137
c. 201.221	am. 1997 No. 137; 1999 No. 132
c. 201.225	am. 1999 No. 81
c. 201.226	am. 1995 No. 268 rs. 2007 No. 314
c. 201.227	am. 1996 No. 75; 1999 No. 81
c. 201.228	am. 2000 No. 62
c. 201.229	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
Note to Div. 201.3	rs. 1997 No. 137
c. 201.311	rs. 1997 No. 137 am. 1999 No. 81; 2008 No. 33
c. 201.321	rs. 1997 No. 137 am. 1999 No. 81; 2008 No. 33
c. 201.322	am. 1999 No. 81; 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 201.323	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 201.511	am. 1996 No. 211
c. 201.711	rs. 2005 No. 134
c. 201.712	ad. 2005 No. 134
Part 202	
Note to Div. 202.1	rs. 1997 No. 137
c. 202.111	ad. 1997 No. 137 am. 1999 No. 81; 2000 No. 259
Note to Div. 202.2	rs. 1997 No. 137
c. 202.211	rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81; 2000 No. 259; 2008 No. 168
c. 202.212	rep. 1997 No. 137 ad. Act No. 128, 2001 rep. 2008 No. 168
c. 202.221	am. 1997 No. 137; 1999 No. 81
c. 202.226	am. 1999 No. 81
c. 202.227	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 202.228	am. 2000 No. 62
c. 202.229	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
Note to Div. 202.3	rs. 1997 No. 137
c. 202.311	rs. 1997 No. 137 am. 1999 No. 81
c. 202.321	rs. 1997 No. 137 am. 1999 No. 81
c. 202.322	am. 1999 No. 81; 2000 No. 62
c. 202.323	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 202.511	am. 1996 No. 211
c. 202.711	rs. 2005 No. 134
c. 202.712	ad. 2005 No. 134
Part 203	
Note to Div. 203.1	rs. 1997 No. 137
c. 203.111	ad. 1997 No. 137 am. 1999 No. 81
Note to Div. 203.2	rs. 1997 No. 137
c. 203.211	rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 203.221	rs. 1997 No. 137 am. 1999 No. 81
c. 203.225	am. 1999 No. 81
c. 203.226	am. 1995 No. 268 rs. 2007 No. 314
c. 203.227	am. 1996 No. 75; 1999 No. 81
c. 203.228	am. 2000 No. 62
c. 203.229	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
Note to Div. 203.3	rs. 1997 No. 137
c. 203.311	rs. 1997 No. 137 am. 1999 No. 81
c. 203.321	rs. 1997 No. 137 am. 1999 No. 81
c. 203.322	am. 1999 No. 81; 2000 No. 62
c. 203.323	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 203.511	am. 1996 No. 211
c. 203.711	rs. 2005 No. 134
c. 203.712	ad. 2005 No. 134
Part 204	
Note to Div. 204.1	rs. 1997 No. 137
c. 204.111	ad. 1997 No. 137 am. 1999 No. 81
Note to Div. 204.2	rs. 1997 No. 137
c. 204.211	rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81
c. 204.212	rs. 1997 No. 137 am. 2009 No. 144
c. 204.213	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 204.221	rs. 1997 No. 137 am. 1999 No. 81
c. 204.222	rs. 1997 No. 137; 1998 No. 304
c. 204.222A	ad. 1998 No. 304
c. 204.224	am. 1997 No. 137
c. 204.225	am. 1999 No. 81
c. 204.226	am. 1995 No. 268 rs. 2007 No. 314
c. 204.227	am. 1996 No. 75; 1999 No. 81
c. 204.228	am. 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 204.229	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
Note to Div. 204.3	rs. 1997 No. 137
c. 204.311	rs. 1997 No. 137 am. 1999 No. 81
c. 204.321	rs. 1997 No. 137 am. 1999 No. 81
c. 204.322	am. 1999 No. 81; 2000 No. 62
c. 204.323	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 204.511	am. 1996 No. 211
c. 204.711	rs. 2005 No. 134
c. 204.712	ad. 2005 No. 134
Part 205	rep. 1997 No. 263
Note to Div. 205.1	rs. 1997 No. 137 rep. 1997 No. 263
c. 205.111	ad. 1997 No. 137 rep. 1997 No. 263
Note to Div. 205.2	rs. 1997 No. 137 rep. 1997 No. 263
c. 205.211	rs. 1997 No. 137 rep. 1997 No. 263
cc. 205.212, 205.213.....	rep. 1997 No. 137
c. 205.221	rep. 1997 No. 263
c. 205.221A.....	ad. 1997 No. 137 rep. 1997 No. 263
c. 205.222	rep. 1997 No. 263
c. 205.223	am. 1995 No. 268 rep. 1997 No. 263
c. 205.224	am. 1996 No. 75 rep. 1997 No. 263
c. 205.225	rep. 1997 No. 263
c. 205.226	am. 1995 No. 268; 1996 No. 75 rep. 1997 No. 263
Note to Div. 205.3	rs. 1997 No. 137 rep. 1997 No. 263
c. 205.311	rs. 1997 No. 137 rep. 1997 No. 263
c. 205.321	rs. 1997 No. 137 rep. 1997 No. 263
c. 205.322	am. 1995 No. 268; 1996 No. 75 rep. 1997 No. 263

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 205.323	rep. 1997 No. 263
c. 205.411	rep. 1997 No. 263
c. 205.511	am. 1996 No. 211 rep. 1997 No. 263
cc. 205.611, 205.612.....	rep. 1997 No. 263
c. 205.711	rep. 1997 No. 263
Part 208	rep. 1997 No. 263
Heading to Part 208	rs. 1994 No. 452 rep. 1997 No. 263
c. 208.111	rep. 1997 No. 263
Note to c. 208.111	rs. 1997 No. 137 rep. 1997 No. 263
c. 208.112	ad. 1997 No. 137 rep. 1997 No. 263
c. 208.211	am. 1994 No. 452 rs. 1997 No. 137 rep. 1997 No. 263
c. 208.212	rep. 1997 No. 137
cc. 208.213, 208.214.....	am. 1994 No. 452 rep. 1997 No. 137
c. 208.215	am. 1994 No. 376 rep. 1997 No. 263
c. 208.221	rep. 1997 No. 263
c. 208.221A.....	ad. 1997 No. 137 rep. 1997 No. 263
c. 208.222	rep. 1997 No. 263
c. 208.223	am. 1995 No. 268 rep. 1997 No. 263
c. 208.224	am. 1996 No. 75 rep. 1997 No. 263
c. 208.225	rep. 1997 No. 263
c. 208.226	am. 1995 No. 268; 1996 No. 75 rep. 1997 No. 263
c. 208.227	rep. 1997 No. 263
Note to Div. 208.3	rs. 1997 No. 137 rep. 1997 No. 263
cc. 208.311, 208.312.....	rs. 1997 No. 137 rep. 1997 No. 263
c. 208.321	rs. 1997 No. 137 rep. 1997 No. 263
c. 208.322	rep. 1997 No. 263

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 208.323	am. 1995 No. 268; 1996 No. 75 rep. 1997 No. 263
c. 208.411	rep. 1997 No. 263
c. 208.511	am. 1996 No. 211 rep. 1997 No. 263
cc. 208.611, 208.612.....	rep. 1997 No. 263
c. 208.711	rep. 1997 No. 263
Part 209	rep. 2000 No. 259
c. 209.111	am. 1999 No. 81 rep. 2000 No. 259
Note to c. 209.111	rs. 1997 No. 137 rep. 2000 No. 259
c. 209.112	ad. 1997 No. 137 rep. 1999 No. 81
c. 209.211	rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81 rep. 2000 No. 259
c. 209.212	rep. 1997 No. 137
c. 209.213	am. 1994 No. 376; 1997 No. 137 rep. 2000 No. 259
cc. 209.214, 209.215.....	rep. 1997 No. 137
c. 209.221	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 209.221A.....	ad. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 209.222	rep. 2000 No. 259
c. 209.223	am. 1999 No. 81 rep. 2000 No. 259
c. 209.224	am. 1995 No. 268 rep. 2000 No. 259
c. 209.225	am. 1996 No. 75 rep. 2000 No. 259
c. 209.226	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2000 No. 259
c. 209.227	am. 2000 No. 62 rep. 2000 No. 259
c. 209.228	rep. 2000 No. 259
c. 209.229	ad. 1997 No. 109 am. 1998 No. 304 rep. 2000 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note to Div. 209.3	rs. 1997 No. 137 rep. 2000 No. 259
c. 209.311	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 209.312	rs. 1997 No. 137 rep. 2000 No. 259
c. 209.321	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 209.322	am. 1995 No. 268; 1996 No. 75 rep. 2000 No. 259
c. 209.323	am. 1999 No. 81; 2000 No. 62 rep. 2000 No. 259
c. 209.411	rep. 2000 No. 259
c. 209.511	am. 1996 No. 211 rep. 2000 No. 259
cc. 209.611, 209.612.....	rep. 2000 No. 259
c. 209.711	rep. 2000 No. 259
Part 210	rep. 1999 No. 68
c. 210.111	rep. 1999 No. 68
Note to c. 210.111.....	rs. 1997 No. 137 rep. 1999 No. 68
c. 210.112	ad. 1997 No. 137 rep. 1999 No. 68
Note to Div. 210.2	rs. 1997 No. 137 rep. 1999 No. 68
c. 210.211	rs. 1997 No. 137 am. 1998 No. 304 rep. 1999 No. 68
cc. 210.212–210.214.....	rep. 1997 No. 137
c. 210.215	am. 1994 No. 376; 1996 No. 75; 1998 No. 304 rep. 1999 No. 68
c. 210.221	rs. 1997 No. 137 rep. 1999 No. 68
cc. 210.222, 210.223.....	rep. 1999 No. 68
c. 210.224	rs. 1998 No. 304 rep. 1999 No. 68
c. 210.225	am. 1996 No. 75 rep. 1999 No. 68
c. 210.226	am. 1995 No. 268; 1996 No. 75 rep. 1999 No. 68

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 210.227	am. 1996 No. 75 rep. 1999 No. 68
c. 210.228	rep. 1999 No. 68
Note to Div. 210.3	rs. 1997 No. 137 rep. 1999 No. 68
cc. 210.311, 210.312.....	rs. 1997 No. 137 rep. 1999 No. 68
c. 210.321	rs. 1997 No. 137 rep. 1999 No. 68
c. 210.322	am. 1995 No. 268; 1996 No. 75 rep. 1999 No. 68
c. 210.323	rep. 1999 No. 68
c. 210.411	rep. 1999 No. 68
c. 210.511	am. 1996 No. 211 rep. 1999 No. 68
cc. 210.611, 210.612.....	rep. 1999 No. 68
c. 210.711	rep. 1999 No. 68
Part 211	rep. 2000 No. 259
c. 211.111	am. 1999 No. 81 rep. 2000 No. 259
Note to c. 211.111	rs. 1997 No. 137 rep. 2000 No. 259
c. 211.112	ad. 1997 No. 137 rep. 1999 No. 81
Note to Div. 211.2	rs. 1997 No. 137 rep. 2000 No. 259
c. 211.211	ad. 1997 No. 137 am. 1998 No. 304; 1999 No. 81 rep. 2000 No. 259
c. 211.212	rep. 1997 No. 137
c. 211.213	am. 1994 No. 376; 1998 No. 304 rep. 2000 No. 259
c. 211.221	rep. 2000 No. 259
c. 211.221A.....	ad. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 211.222	am. 1994 No. 376; 1997 No. 137; 1999 No. 81 rep. 2000 No. 259
c. 211.223	am. 1995 No. 268 rep. 2000 No. 259
c. 211.224	am. 1995 No. 117; 1996 No. 75 rep. 2000 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 211.225	am. 1995 Nos. 117 and 268; 1996 No. 75; 1999 No. 81 rep. 2000 No. 259
c. 211.226	am. 2000 No. 62 rep. 2000 No. 259
c. 211.227	rep. 2000 No. 259
c. 211.228	ad. 1997 No. 109 am. 1998 No. 304 rep. 2000 No. 259
Note to Div. 211.3	rs. 1997 No. 137 rep. 2000 No. 259
c. 211.311	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 211.312	rs. 1997 No. 137 rep. 2000 No. 259
Subdiv. 211.32	rs. 1998 No. 304 rep. 2000 No. 259
c. 213.321	rep. 1998 No. 304
cc. 211.321, 211.322.....	ad. 1998 No. 304 rep. 2000 No. 259
c. 211.323	am. 1995 No. 268; 1996 No. 75 rs. 1998 No. 304 am. 2000 No. 62 rep. 2000 No. 259
c. 211.324	rep. 1998 No. 304
c. 211.411	rep. 2000 No. 259
c. 211.511	am. 1996 No. 211 rep. 2000 No. 259
cc. 211.611, 211.612.....	rep. 2000 No. 259
c. 211.711	rep. 2000 No. 259
Part 212	rep. 2000 No. 259
c. 212.111	am. 1999 No. 81 rep. 2000 No. 259
Note to c. 212.111.....	rs. 1997 No. 137 rep. 2000 No. 259
c. 212.112	ad. 1997 No. 137 rep. 1999 No. 81
Note to Div. 212.2	rs. 1997 No. 137 rep. 2000 No. 259
c. 212.211	rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81 rep. 2000 No. 259
c. 212.212	rep. 1997 No. 137

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 212.213	am. 1994 No. 376; 1996 No. 75; 1997 No. 137; 1999 No. 81 rep. 2000 No. 259
c. 212.221	rep. 2000 No. 259
c. 212.221A	ad. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 212.222	rep. 2000 No. 259
c. 212.223	am. 1999 No. 81 rep. 2000 No. 259
c. 212.224	am. 1995 No. 268 rep. 2000 No. 259
c. 212.225	rs. 1998 No. 304 rep. 2000 No. 259
c. 212.226	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2000 No. 259
c. 212.227	am. 2000 No. 62 rep. 2000 No. 259
c. 212.228	ad. 1997 No. 109 am. 1998 No. 304 rep. 2000 No. 259
Note to Div. 212.3	rs. 1997 No. 137 rep. 2000 No. 259
c. 212.311	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 212.312	rs. 1997 No. 137 rep. 2000 No. 259
c. 212.321	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 212.322	am. 1995 No. 268; 1996 No. 75 rep. 2000 No. 259
c. 212.323	am. 1999 No. 81; 2000 No. 62 rep. 2000 No. 259
c. 212.411	rep. 2000 No. 259
c. 212.511	am. 1996 No. 211 rep. 2000 No. 259
cc. 212.611, 212.612	rep. 2000 No. 259
c. 212.711	rep. 2000 No. 259
Part 213	rep. 2000 No. 259
Note to Div. 213.1	rs. 1997 No. 137 rep. 2000 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 213.111	ad. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
Note to Div. 213.2	rs. 1997 No. 137 rep. 2000 No. 259
c. 213.211	ad. 1997 No. 137 am. 1998 No. 304; 1999 No. 81 rep. 2000 No. 259
c. 213.212	rep. 1997 No. 137
c. 213.213	am. 1994 No. 376; 1998 No. 304 rep. 2000 No. 259
c. 213.221	rep. 2000 No. 259
c. 213.221A.....	ad. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 213.222	am. 1999 No. 81 rep. 2000 No. 259
c. 213.223	am. 1995 No. 268 rep. 2000 No. 259
c. 213.224	am. 1996 No. 75 rep. 2000 No. 259
c. 213.225	am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2000 No. 259
c. 213.226	am. 2000 No. 62 rep. 2000 No. 259
c. 213.227	rep. 2000 No. 259
c. 213.228	ad. 1997 No. 109 am. 1998 No. 304 rep. 2000 No. 259
Note to Div. 213.3	rs. 1997 No. 137 rep. 2000 No. 259
c. 213.311	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 213.312	rs. 1997 No. 137 rep. 2000 No. 259
c. 213.321	rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 213.323	am. 1995 No. 268; 1996 No. 75 rep. 2000 No. 259
c. 213.324	am. 1999 No. 81; 2000 No. 62 rep. 2000 No. 259
c. 213.411	rep. 2000 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 213.511	am. 1996 No. 211 rep. 2000 No. 259
cc. 213.611, 213.612.....	rep. 2000 No. 259
c. 213.711	rep. 2000 No. 259
Part 214	rep. 1997 No. 263
c. 214.111	am. 1994 No. 376 rep. 1997 No. 263
c. 214.112	ad. 1994 No. 376 am. 1997 No. 137 rep. 1997 No. 263
c. 214.113	ad. 1997 No. 137 rep. 1997 No. 263
Note to c. 214.113.....	ad. 1997 No. 137 rep. 1997 No. 263
Note to Div. 214.2	rs. 1997 No. 137 rep. 1997 No. 263
c. 214.211	rs. 1994 No. 376; 1997 No. 137 rep. 1997 No. 263
c. 214.212	am. 1994 No. 376 rep. 1997 No. 263
c. 214.221	rep. 1997 No. 263
c. 214.221A.....	ad. 1997 No. 137 rep. 1997 No. 263
c. 214.222	rep. 1997 No. 263
c. 214.224	rep. 1997 No. 263
c. 214.225	am. 1995 No. 268 rep. 1997 No. 263
c. 214.226	am. 1995 No. 117; 1996 No. 75 rep. 1997 No. 263
c. 214.227	am. 1995 No. 268; 1996 No. 75 rep. 1997 No. 263
cc. 214.228, 214.229.....	rep. 1997 No. 263
Note to Div. 214.3	rs. 1997 No. 137 rep. 1997 No. 263
cc. 214.311, 214.312.....	rs. 1997 No. 137 rep. 1997 No. 263
c. 214.321	rs. 1997 No. 137 rep. 1997 No. 263
c. 214.322	rep. 1997 No. 263
c. 214.323	am. 1995 No. 268; 1996 No. 75 rep. 1997 No. 263
c. 214.324	rep. 1997 No. 263
c. 214.411	rep. 1997 No. 263

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 214.511	am. 1996 No. 211 rep. 1997 No. 263
cc. 214.611, 214.612.....	rep. 1997 No. 263
c. 214.711	rep. 1997 No. 263
Part 215	ad. 1994 No. 452 rep. 2000 No. 259
c. 215.111	ad. 1994 No. 452 am. 1999 No. 81 rep. 2000 No. 259
Note to c. 215.111	ad. 1997 No. 137 rep. 2000 No. 259
Note to Div. 215.2	rs. 1997 No. 137 rep. 2000 No. 259
c. 215.211	ad. 1994 No. 452 rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81 rep. 2000 No. 259
cc. 215.212–215.214.....	ad. 1994 No. 452 rep. 1997 No. 137
c. 215.215	ad. 1994 No. 452 am. 1997 No. 137 rep. 2000 No. 259
c. 215.221	ad. 1994 No. 452 rep. 2000 No. 259
c. 215.221A.....	ad. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 215.222	ad. 1994 No. 452 rep. 2000 No. 259
c. 215.223	ad. 1994 No. 452 am. 1999 No. 81 rep. 2000 No. 259
c. 215.224	ad. 1994 No. 452 am. 1998 No. 304 rep. 2000 No. 259
c. 215.225	ad. 1994 No. 452 am. 1995 No. 268 rep. 2000 No. 259
c. 215.226	ad. 1994 No. 452 am. 1996 No. 75 rep. 2000 No. 259
c. 215.227	ad. 1994 No. 452 am. 1995 No. 268; 1996 No. 75; 1999 No. 81 rep. 2000 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 215.228	ad. 1994 No. 452 am. 2000 No. 62 rep. 2000 No. 259
Note to Div. 215.3	rs. 1997 No. 137 rep. 2000 No. 259
c. 215.311	ad. 1994 No. 452 rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 215.312	ad. 1994 No. 452 rs. 1997 No. 137 rep. 2000 No. 259
c. 215.321	ad. 1994 No. 452 rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 215.322	ad. 1994 No. 452 am. 1995 No. 268; 1996 No. 75 rep. 2000 No. 259
c. 215.323	ad. 1994 No. 452 am. 1999 No. 81; 2000 No. 62 rep. 2000 No. 259
c. 215.411	ad. 1994 No. 452 rep. 2000 No. 259
c. 215.511	ad. 1994 No. 452 am. 1996 No. 211 rep. 2000 No. 259
cc. 215.611, 215.612.....	ad. 1994 No. 452 rep. 2000 No. 259
c. 215.711	ad. 1994 No. 452 rep. 2000 No. 259
Part 216	ad. 1995 No. 268 rep. 2000 No. 259
Note to Div. 216.1	ad. 1995 No. 268 rs. 1997 No. 137 rep. 2000 No. 259
Note to Div. 216.2	ad. 1995 No. 268 rs. 1997 No. 137 rep. 2000 No. 259
c. 216.211	ad. 1995 No. 268 rs. 1997 No. 137 am. 1998 No. 304; 1999 No. 81 rep. 2000 No. 259
c. 216.212	ad. 1995 No. 268 rep. 1997 No. 137

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 216.213	ad. 1995 No. 268 am. 1998 No. 304 rep. 2000 No. 259
c. 216.221	ad. 1995 No. 268 rep. 2000 No. 259
c. 216.221A.....	ad. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
cc. 216.222, 216.223.....	ad. 1995 No. 268 rep. 2000 No. 259
c. 216.224	ad. 1995 No. 268 am. 1998 No. 304 rep. 2000 No. 259
c. 216.225	ad. 1995 No. 268 rep. 2000 No. 259
cc. 216.226, 216.227.....	ad. 1995 No. 268 am. 1996 No. 75 rep. 2000 No. 259
c. 216.228	ad. 1995 No. 268 am. 2000 No. 62 rep. 2000 No. 259
Note to Div. 216.3	ad. 1995 No. 268 rs. 1997 No. 137 rep. 2000 No. 259
c. 216.311	ad. 1995 No. 268 rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 216.312	ad. 1995 No. 268 rs. 1997 No. 137 rep. 2000 No. 259
c. 216.321	ad. 1995 No. 268 rs. 1997 No. 137 am. 1999 No. 81 rep. 2000 No. 259
c. 216.322	ad. 1995 No. 268 am. 1996 No. 75 rep. 2000 No. 259
c. 216.323	ad. 1995 No. 268 am. 2000 No. 62 rep. 2000 No. 259
c. 216.411	ad. 1995 No. 268 rep. 2000 No. 259
c. 216.511	ad. 1995 No. 268 am. 1996 No. 211 rep. 2000 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
cc. 216.611, 216.612.....	ad. 1995 No. 268 rep. 2000 No. 259
c. 216.711	ad. 1995 No. 268 rep. 2000 No. 259
Part 217	ad. 1995 No. 268 rep. 1999 No. 68
c. 217.111	ad. 1995 No. 268 rep. 1999 No. 68
Note to c. 217.111.....	ad. 1997 No. 137 rep. 1999 No. 68
Note to Div. 217.2	ad. 1995 No. 268 rs. 1997 No. 137 rep. 1999 No. 68
c. 217.211	ad. 1995 No. 268 rs. 1997 No. 137 am. 1998 No. 304 rep. 1999 No. 68
c. 217.212	ad. 1995 No. 268 am. 1997 No. 137 rep. 1999 No. 68
c. 217.221	ad. 1995 No. 268 rep. 1999 No. 68
c. 217.221A.....	ad. 1997 No. 137 rep. 1999 No. 68
cc. 217.222, 217.223.....	ad. 1995 No. 268 rep. 1999 No. 68
c. 217.224	ad. 1995 No. 268 am. 1998 No. 304 rep. 1999 No. 68
c. 217.225	ad. 1995 No. 268 rep. 1999 No. 68
cc. 217.226, 217.227.....	ad. 1995 No. 268 am. 1996 No. 75 rep. 1999 No. 68
c. 217.228	ad. 1995 No. 268 rep. 1999 No. 68
Note to Div. 217.3	ad. 1995 No. 268 rs. 1997 No. 137 rep. 1999 No. 68
cc. 217.311, 217.312.....	ad. 1995 No. 268 rs. 1997 No. 137 rep. 1999 No. 68
c. 217.321	ad. 1995 No. 268 rs. 1997 No. 137 rep. 1999 No. 68

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 217.322	ad. 1995 No. 268 am. 1996 No. 75 rep. 1999 No. 68
c. 217.323	ad. 1995 No. 268 rep. 1999 No. 68
c. 217.411	ad. 1995 No. 268 rep. 1999 No. 68
c. 217.511	ad. 1995 No. 268 am. 1996 No. 211 rep. 1999 No. 68
cc. 217.611, 217.612.....	ad. 1995 No. 268 rep. 1999 No. 68
c. 217.711	ad. 1995 No. 268 rep. 1999 No. 68
Part 300	
c. 300.111	am. 1996 No. 211
Note to c. 300.111.....	am. 2009 No. 144
c. 300.212	rep. 1994 No. 376 ad. 1996 No. 211 am. 2009 No. 144
c. 300.214	rs. 1996 No. 211
c. 300.215	am. 1995 No. 117
c. 300.216	rs. 1994 No. 376
c. 300.221	rs. 1994 No. 376
c. 300.221A.....	ad. 1994 No. 376
c. 300.221B.....	ad. 1994 No. 376
Note to c. 300.221B	ad. 1994 No. 376
Note to c. 300.222.....	ad. 1996 No. 211 rs. 2009 No. 116
c. 300.223	am. 1995 No. 268 rs. 2007 No. 314
c. 300.224	am. 1996 No. 75
c. 300.225	am. 2004 No. 93
c. 300.226	am. 1995 No. 268; 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 300.227	am. 1999 No. 81; 2000 No. 62
c. 300.228	ad. 2005 No. 134
c. 300.321	am. 1999 No. 81
c. 300.323	am. 1995 No. 268 rs. 2007 No. 314
c. 300.324	am. 1996 No. 75
c. 300.325	am. 2004 No. 93

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 300.326	am. 1999 No. 81; 2000 No. 62
c. 300.327	ad. 2005 No. 134
c. 300.411	rs. 2000 No. 259
c. 300.412	ad. 2000 No. 259
c. 300.511	rs. 1995 No. 117
c. 300.615	am. 1999 No. 81
c. 300.71 Renumbered c. 300.711 ..	1999 No. 81
c. 300.711	rs. 2005 No. 134
c. 300.712	ad. 2005 No. 134
Part 302	
c. 302.111	rs. 1996 No. 211 am. 2000 No. 62
c. 302.212	am. 1999 No. 81
c. 302.223	am. 1999 No. 81
c. 302.227	ad. 2005 No. 134
c. 302.311	am. 1999 No. 81
c. 302.321	am. 1999 No. 81
c. 302.323	am. 1999 No. 81; 2000 No. 62
c. 302.324	ad. 2005 No. 134
c. 302.711	rs. 2005 No. 134
c. 302.712	ad. 2005 No. 134
Part 303	
Heading to Part 303	rs. 1996 No. 76
c. 303.111	am. 1999 No. 81
c. 303.212	am. 1996 No. 76; 1999 No. 81; 2000 No. 259
c. 303.213	am. 1999 No. 81
c. 303.221	am. 2000 No. 259
c. 303.225	am. 1996 No. 75; 1999 No. 81; 2000 No. 259
c. 303.227	ad. 1997 No. 354 am. 2000 No. 259
c. 303.228	ad. 2005 No. 134
c. 303.311	am. 1999 No. 81
c. 303.321	am. 1999 No. 81
c. 303.323	am. 1996 No. 75; 1997 No. 354 rs. 2000 No. 259
c. 303.324	am. 1996 No. 75
c. 303.325	ad. 1999 No. 259 am. 2000 No. 62
c. 303.326	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note to c. 303.412.....	rep. 1996 No. 75
c. 303.511	am. 1999 No. 81
c. 303.611	rs. 1995 No. 117
c. 303.612	rep. 1995 No. 117
c. 303.711	am. 1999 No. 81 rs. 2005 No. 134
c. 303.712	ad. 2005 No. 134
Part 305	rep. 1995 No. 117
c. 305.211	rep. 1995 No. 117
cc. 305.221–305.225.....	rep. 1995 No. 117
c. 305.311	rep. 1995 No. 117
cc. 305.321–305.324.....	rep. 1995 No. 117
c. 305.411	rep. 1995 No. 117
c. 305.511	rep. 1995 No. 117
c. 305.611	rep. 1995 No. 117
c. 305.711	rep. 1995 No. 117
Part 309	
Heading to Part 309	rs. 2009 No. 144
Part 309	ad. 1996 No. 276
c. 309.111	ad. 1996 No. 276 am. 2005 No. 240
Note to c. 309.111	am. 2009 No. 144
c. 309.211	ad. 1996 No. 276 am. 2001 No. 27; 2009 No. 144
Note to c. 309.211 (2)	am. 2009 No. 144
c. 309.212	ad. 1996 No. 276 am. 2009 No. 144
c. 309.213	ad. 1996 No. 276 am. 2009 No. 144
c. 309.221	ad. 1996 No. 276
c. 309.222	ad. 1996 No. 276
Note to c. 309.222	rs. 2009 No. 116
c. 309.223	ad. 1996 No. 276 am. 2005 No. 240; 2009 No. 144
c. 309.224	ad. 1996 No. 276
c. 309.225	ad. 1996 No. 276 rs. 2007 No. 314
c. 309.226	ad. 1996 No. 276
c. 309.227	ad. 1996 No. 276 am. 2004 No. 93

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 309.228	ad. 1996 No. 276 am. 1999 No. 81; 2007 No. 314
c. 309.229	ad. 1996 No. 276 am. 2000 No. 62
c. 309.230	ad. 2005 No. 134
c. 309.311	ad. 1996 No. 276 am. 1999 No. 132
c. 309.312	ad. 1996 No. 276
c. 309.321	ad. 1996 No. 276
c. 309.322	ad. 1996 No. 276
c. 309.323	ad. 1996 No. 276 rs. 2007 No. 314
c. 309.324	ad. 1996 No. 276
c. 309.325	ad. 1996 No. 276 am. 2004 No. 93
c. 309.326	ad. 1996 No. 276 am. 2000 No. 62
c. 309.327	ad. 2005 No. 134
c. 309.411	ad. 1996 No. 276 rs. 2000 No. 259
c. 309.412	ad. 2000 No. 259
c. 309.511	ad. 1996 No. 276 rs. 1999 No. 259
c. 309.611	ad. 1996 No. 276
c. 309.612	ad. 1996 No. 276
c. 309.613	ad. 1996 No. 276
c. 309.711	ad. 1996 No. 276 rs. 2005 No. 134
c. 309.712	ad. 2005 No. 134
Part 310	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.211	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.212	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.221	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.222	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.223	ad. 1996 No. 276 rep. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 310.224	ad. 1996 No. 276 am. 2007 No. 314 rep. 2009 No. 144
c. 310.225	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.226	ad. 1996 No. 276 am. 2004 No. 93 rep. 2009 No. 144
c. 310.227	ad. 1996 No. 276 am. 1999 No. 81; 2007 No. 314 rep. 2009 No. 144
c. 310.228	ad. 1996 No. 276 am. 2000 No. 62 rep. 2009 No. 144
c. 310.229	ad. 2005 No. 134 rep. 2009 No. 144
c. 310.311	ad. 1996 No. 276 am. 1999 No. 132 rep. 2009 No. 144
c. 310.312	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.321	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.322	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.323	ad. 1996 No. 276 rs. 2007 No. 314 rep. 2009 No. 144
c. 310.324	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.325	ad. 1996 No. 276 am. 2004 No. 93 rep. 2009 No. 144
c. 310.326	ad. 1996 No. 276 am. 2000 No. 62 rep. 2009 No. 144
c. 310.327	ad. 2005 No. 134 rep. 2009 No. 144
c. 310.411	ad. 1996 No. 276 rs. 2000 No. 259 rep. 2009 No. 144
c. 310.412	ad. 2000 No. 259 rep. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 310.511	ad. 1996 No. 276 rs. 1999 No. 259 rep. 2009 No. 144
c. 310.611	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.612	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.613	ad. 1996 No. 276 rep. 2009 No. 144
c. 310.711	ad. 1996 No. 276 rs. 2005 No. 134 rep. 2009 No. 144
c. 310.712	ad. 2005 No. 134 rep. 2009 No. 144
Part 405	
Part 405	ad. 2005 No. 133
c. 405.111	ad. 2005 No. 133
c. 405.211	ad. 2005 No. 133
c. 405.221	ad. 2005 No. 133 am. 2009 No. 144
c. 405.222	ad. 2005 No. 133
c. 405.223	ad. 2005 No. 133
c. 405.224	ad. 2005 No. 133
c. 405.225	ad. 2005 No. 133
c. 405.226	ad. 2005 No. 133
c. 405.227	ad. 2005 No. 133 am. 2007 No. 314; 2009 Nos. 116 and 144
c. 405.228	ad. 2005 No. 133 am. 2007 No. 314; 2009 Nos. 116 and 144
c. 405.229	ad. 2005 No. 134
c. 405.311	ad. 2005 No. 133 am. 2009 No. 144
c. 405.312	ad. 2005 No. 133 am. 2009 No. 144
c. 405.321	ad. 2005 No. 133 am. 2009 No. 144
c. 405.322	ad. 2005 No. 133
c. 405.323	ad. 2005 No. 133 am. 2009 No. 144
c. 405.324	ad. 2005 No. 133
c. 405.325	ad. 2005 No. 133
c. 405.326	ad. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 405.327	ad. 2005 No. 133
c. 405.328	ad. 2005 No. 133
c. 405.329	ad. 2005 No. 133 am. 2007 No. 314
c. 405.330	ad. 2005 No. 133 am. 2007 No. 314
c. 405.331	ad. 2005 No. 134
c. 405.411	ad. 2005 No. 133
c. 405.412	ad. 2005 No. 133
c. 405.511	ad. 2005 No. 133
c. 405.611	ad. 2005 No. 133
c. 405.612	ad. 2005 No. 133
c. 405.711	ad. 2005 No. 133 rs. 2005 No. 134
c. 405.712	ad. 2005 No. 133 rs. 2005 No. 134
Part 410	
Part 410	rs. 1995 No. 134
Div. 410.1	rep. 2005 No. 133 ad. 2005 No. 240
Note to Div. 410.1	ad. 2005 No. 240
c. 410.111	ad. 1995 No. 134 rs. 1998 No. 304 am. 2003 No. 239 rep. 2005 No. 133
Note before c. 410.211	rs. 2005 No. 133
c. 410.211	rs. 1995 No. 134 am. 1995 No. 268; 1996 Nos. 75 and 76; 1998 No. 304; 1999 No. 81; 2005 No. 133
Subdiv. 410.22	rs. 2002 No. 348
c. 410.221	rs. 1995 No. 134; 2002 No. 348 am. 2003 Nos. 239 and 363; 2005 No. 133; 2007 No. 314; 2009 No. 144
c. 410.222	rs. 1995 No. 134 rep. 2002 No. 348 ad. 2005 No. 134
c. 410.223	rs. 1995 No. 134 am. 1996 No. 75 rep. 2002 No. 348
cc. 410.224, 410.225	rs. 1995 No. 134 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 410.226	rs. 1995 No. 134 am. 1996 No. 75; 1998 No. 304 rep. 2002 No. 348
c. 410.227	rs. 1995 No. 134 am. 1995 No. 268; 1996 No. 75 rs. 1998 No. 304 am. 1999 No. 8 rep. 2002 No. 348
cc. 410.228–410.230.....	rep. 1995 No. 134
c. 410.311	rs. 1995 No. 134 am. 2009 No. 144
c. 410.312	rs. 1995 No. 134 am. 2005 No. 133; 2009 No. 144
c. 410.313	rs. 1995 No. 134 rep. 1998 No. 304
Subdiv. 410.32	rs. 2002 No. 348
c. 410.321	rs. 1995 No. 134; 2002 No. 348 am. 2003 No. 239; 2005 No. 133; 2007 No. 314; 2009 No. 144
c. 410.322	rs. 1995 No. 134; 1998 No. 304 rep. 2002 No. 348 ad. 2005 No. 134
cc. 410.323, 410.324.....	rs. 1995 No. 134 am. 1996 No. 75 rs. 1998 No. 304 rep. 2002 No. 348
c. 410.325	ad. 1995 No. 134 am. 1996 No. 75 rep. 2002 No. 348
c. 410.326	ad. 1999 No. 8 rep. 2002 No. 348
c. 410.411	rs. 1995 No. 134; 2005 No. 133
c. 410.412	rs. 1995 No. 134; 2005 No. 133
c. 410.511	rs. 1995 No. 134 am. 1998 No. 304; 2002 No. 348; 2005 No. 133
c. 410.611	rs. 1995 No. 134 am. 2002 No. 348 rep. 2009 No. 116
c. 410.612	rs. 1995 No. 134
Note to c. 410.612.....	ad. 2009 No. 116
c. 410.711	rs. 1995 No. 134 am. 1999 No. 81 rs. 2005 No. 134
c. 410.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 411	
c. 411.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133; 2008 No. 205
c. 411.221	am. 1995 No. 38; 1999 No. 81; 2005 No. 133
c. 411.224	am. 1995 No. 268; 1999 Nos. 8 and 81; 2002 No. 348
c. 411.225	am. 1996 No. 75
c. 411.226	am. 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 411.227	am. 1999 No. 81
c. 411.228	ad. 1999 No. 8
c. 411.229	ad. 2005 No. 134
c. 411.311	am. 1999 No. 81
c. 411.313	rep. 2002 No. 348
c. 411.321	am. 1999 No. 81
c. 411.324	am. 1996 No. 75; 1999 No. 132; 2007 No. 314
c. 411.325	am. 1996 No. 75
c. 411.325A	ad. 2002 No. 348
c. 411.326	ad. 1999 No. 8
c. 411.327	ad. 1999 No. 259 am. 2000 No. 62
c. 411.328	ad. 2005 No. 134
Note to c. 411.412	rep. 1996 No. 75
c. 411.612	am. 1999 No. 81
c. 411.711	am. 1999 No. 81 rs. 2005 No. 134
c. 411.712	ad. 2005 No. 134
Part 412	rep. 1996 No. 76
c. 412.211	am. 1995 No. 268; 1996 No. 75 rep. 1996 No. 76
cc. 412.221–412.225	rep. 1996 No. 76
c. 412.226	am. 1995 No. 268 rep. 1996 No. 76
cc. 412.227, 412.228	am. 1996 No. 75 rep. 1996 No. 76
cc. 412.311–412.313	rep. 1996 No. 76
c. 412.321	rep. 1996 No. 76
c. 412.323	rep. 1996 No. 76
cc. 412.324, 412.325	am. 1996 No. 75 rep. 1996 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
cc. 412.411, 412.412.....	rep. 1996 No. 76
Note to c. 412.412.....	rep. 1996 No. 75
c. 412.511	rep. 1996 No. 76
c. 412.611	rep. 1996 No. 76
c. 412.711	rep. 1996 No. 76
Part 413	rep. 1996 No. 76
c. 413.211	am. 1995 No. 268; 1996 No. 75 rep. 1996 No. 76
c. 413.221	am. 1994 No. 280 rep. 1996 No. 76
c. 413.222	rs. 1994 No. 280 rep. 1996 No. 76
c. 413.223	am. 1995 No. 38 rep. 1996 No. 76
c. 413.224	am. 1994 No. 376; 1995 No. 117; 1996 No. 75 rep. 1996 No. 76
c. 413.225	rep. 1996 No. 76
c. 413.226	am. 1996 No. 75 rep. 1996 No. 76
c. 413.227	rep. 1996 No. 76
c. 413.228	rs. 1994 No. 280 am. 1995 No. 268 rep. 1996 No. 76
c. 413.229	am. 1994 No. 280; 1995 No. 268 rep. 1996 No. 76
c. 413.230	rs. 1994 No. 280 am. 1995 No. 268; 1996 No. 75 rep. 1996 No. 76
cc. 413.311–413.313.....	rep. 1996 No. 76
cc. 413.321–413.323.....	rep. 1996 No. 76
c. 413.324	am. 1994 No. 376; 1995 No. 117; 1996 No. 75 rep. 1996 No. 76
c. 413.325	am. 1996 No. 75 rep. 1996 No. 76
cc. 413.411, 413.412.....	rep. 1996 No. 76
Note to c. 413.412.....	rep. 1996 No. 75
c. 413.511	rep. 1996 No. 76
cc. 413.611, 413.612.....	rep. 1996 No. 76
c. 413.711	rep. 1996 No. 76
Part 414	rep. 1996 No. 76
c. 414.211	am. 1995 No. 268; 1996 No. 75 rep. 1996 No. 76

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 414.221	am. 1994 No. 280 rep. 1996 No. 76
cc. 414.222, 414.223.....	rs. 1994 No. 280 rep. 1996 No. 76
c. 414.224	am. 1995 No. 38 rep. 1996 No. 76
c. 414.225	am. 1994 No. 376; 1995 No. 117; 1996 No. 75 rep. 1996 No. 76
c. 414.226	rep. 1996 No. 76
c. 414.227	am. 1996 No. 75 rep. 1996 No. 76
c. 414.228	rs. 1994 No. 280 am. 1995 No. 268 rep. 1996 No. 76
c. 414.229	rs. 1994 No. 280 am. 1995 No. 268; 1996 No. 75 rep. 1996 No. 76
cc. 414.311–414.313.....	rep. 1996 No. 76
cc. 414.321–414.323.....	rep. 1996 No. 76
c. 414.324	am. 1994 No. 376; 1995 No. 117; 1996 No. 75 rep. 1996 No. 76
c. 414.325	am. 1996 No. 75 rep. 1996 No. 76
cc. 414.411, 414.412.....	rep. 1996 No. 76
Note to c. 414.412.....	rep. 1996 No. 75
c. 414.511	rep. 1996 No. 76
cc. 414.611, 414.612.....	rep. 1996 No. 76
c. 414.711	rep. 1996 No. 76
Part 415	
c. 415.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133; 2008 No. 205
c. 415.221	am. 1995 No. 38; 1999 No. 81
c. 415.223	am. 1997 No. 109; 1999 No. 132
c. 415.224	am. 1995 No. 38; 2008 No. 166
c. 415.226	am. 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 415.228	am. 1996 No. 75
c. 415.229	am. 1995 No. 268; 1996 No. 76; 1997 No. 109; 1999 No. 81
c. 415.230	rs. 2002 No. 348
c. 415.231	am. 1999 No. 81
c. 415.232	ad. 1999 No. 8

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 415.233	ad. 2005 No. 134
c. 415.311	am. 1999 No. 81
c. 415.313	rep. 2002 No. 348
c. 415.321	am. 1999 No. 81
c. 415.324	am. 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 415.325	am. 1996 No. 75
c. 415.325A.....	ad. 2002 No. 348
c. 415.326	ad. 1999 No. 8
c. 415.327	ad. 1999 No. 259 am. 2000 No. 62
c. 415.328	ad. 2005 No. 134
Note to c. 415.412.....	rep. 1996 No. 75
c. 415.612	am. 1999 No. 81
c. 415.711	am. 1999 No. 81 rs. 2005 No. 134
c. 415.712	ad. 2005 No. 134
Part 416	
Note to Subdiv. 416.21.....	rs. 2004 No. 93
c. 416.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2004 No. 93; 2005 No. 133 rs. 2007 No. 69
c. 416.221	am. 1999 No. 81 rs. 2004 No. 93
c. 416.222	am. 2008 No. 189
c. 416.223	am. 1996 No. 75; 1997 No. 354 rs. 2007 No. 314
c. 416.225	am. 1996 No. 75 rs. 2004 No. 93
c. 416.226	rs. 2002 No. 348 am. 2004 No. 93
c. 416.227	am. 1999 No. 81 rs. 2004 No. 93
c. 416.228	ad. 1999 No. 8
c. 416.229	ad. 2005 No. 134
c. 416.311	am. 1999 No. 81 rs. 2008 No. 189
c. 416.312	rs. 2004 No. 93
c. 416.313	rep. 2002 No. 348
c. 416.321	am. 1999 No. 81 rs. 2008 No. 189
c. 416.323	am. 1996 No. 75; 1997 No. 354; 2007 No. 314

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 416.324	am. 1996 No. 75 rs. 2004 No. 93
c. 416.324A	ad. 2002 No. 348 am. 2004 No. 93
c. 416.325	ad. 1999 No. 8
c. 416.326	ad. 1999 No. 259 am. 2000 No. 62
c. 416.327	ad. 2005 No. 134
Div. 416.4	rs. 2008 No. 189
c. 416.411	rs. 2004 No. 93; 2008 No. 189
c. 416.412	rs. 2004 No. 93; 2008 No. 189
Note to c. 416.412	rep. 1996 No. 75
c. 416.611	rs. 2004 No. 93; 2008 No. 189
c. 416.611A	ad. 2004 No. 93
c. 416.612	am. 1999 No. 81
c. 416.711	am. 1999 No. 81 rs. 2005 No. 134
c. 416.712	ad. 2005 No. 134
Part 417	
Div. 417.1	rs. 2000 No. 62
Note to Div. 417.1	rep. 2000 No. 62
c. 417.111	ad. 2000 No. 62 am. 2005 Nos. 133 and 240; 2008 No. 91
Note to c. 417.111	ad. 2002 No. 86
Note to Div. 417.2	rs. 2008 No. 91
Subdiv. 417.21	rs. 2002 No. 86
c. 417.211	am. 1999 No. 81 rep. 2000 No. 62 ad. 2002 No. 86 am. 2005 Nos. 133 and 240; 2008 Nos. 91 and 205
Note to c. 417.211 (3)	rs. 2005 No. 133
Note to c. 417.211 (5)	rep. 2005 No. 133
c. 417.212	rs. 1996 No. 75 am. 1999 No. 81 rep. 2000 No. 62 ad. 2002 No. 86 rep. 2005 No. 133
c. 417.213	rep. 2002 No. 86

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 417.214	am. 1996 No. 211 rs. 2000 No. 62 am. 2001 No. 162 rep. 2002 No. 86
c. 417.215	rs. 2000 No. 62; 2001 No. 162 rep. 2002 No. 86
c. 417.216	am. 1996 No. 75; 2000 No. 62 rep. 2002 No. 86
c. 417.217	am. 1999 No. 81; 2000 No. 62 rep. 2002 No. 86
cc. 417.218, 417.219.....	rep. 2000 No. 62
Subdiv. 417.22	rs. 2002 No. 86
c. 417.221	rs. 1996 No. 75 am. 1996 No. 75 rs. 2000 No. 62; 2002 No. 86 am. 2005 Nos. 133 and 240; 2007 No. 314; 2008 No. 91
Note to c. 417.221 (7)	rep. 2005 No. 133
c. 417.222	am. 1996 No. 75; 2000 No. 62 rs. 2002 No. 86 rep. 2005 No. 133 ad. 2005 No. 240 rs. 2008 No. 205
c. 417.223	rep. 1996 No. 75
c. 417.224	rep. 2002 No. 86
c. 417.225	am. 1999 No. 81 rep. 2002 No. 86
c. 417.226	ad. 1999 No. 8 rep. 2002 No. 86
Note to Div. 417.3	rs. 2008 No. 91
Div. 417.4.....	rs. 2005 No. 133
c. 417.411	rs. 2000 No. 62; 2002 No. 86; 2005 Nos. 133 and 240 am. 2008 No. 205
c. 417.412	rep. 2000 No. 62 ad. 2002 No. 86 rep. 2005 No. 133 ad. 2005 No. 240 am. 2008 No. 205
Note to c. 417.412.....	rep. 1996 No. 75
Div. 417.5.....	rs. 2005 No. 133
c. 417.511	rs. 1995 No. 411; 2002 No. 86; 2005 Nos. 133 and 240 am. 2008 No. 205
Div. 417.6.....	rs. 2005 No. 133
c. 417.611	rs. 2000 No. 62; 2002 No. 86; 2005 No. 133 am. 2006 No. 123

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 417.612	am. 1999 No. 81 rs. 2002 No. 86; 2005 No. 133
c. 417.711	am. 1999 No. 81 rs. 2005 No. 134
c. 417.712	ad. 2005 No. 134
Part 418	
c. 418.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2001 No. 162; 2005 No. 133; 2008 No. 205
c. 418.222	am. 1997 No. 109
c. 418.224	am. 1995 No. 38; 2008 No. 166
c. 418.226	am. 1994 No. 376; 1995 No. 117; 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 418.227	am. 1996 No. 75
c. 418.228	rs. 2002 No. 348
c. 418.229	am. 1995 No. 268; 1999 Nos. 8 and 81; 2002 No. 86
c. 418.229A	ad. 1999 No. 8
c. 418.230	am. 1995 No. 268; 1996 No. 76; 1997 No. 109; 1999 No. 81; 2001 No. 162; 2004 No. 269
c. 418.231	am. 1995 No. 268; 1996 Nos. 75 and 76; 2005 No. 133; 2008 No. 205
c. 418.232	ad. 2005 No. 134
c. 418.311	am. 1999 No. 81
c. 418.313	rep. 2002 No. 348
c. 418.321	am. 1999 No. 81
c. 418.322	am. 1999 No. 81
c. 418.323	am. 1999 No. 81
c. 418.324	am. 1994 No. 376; 1995 No. 117; 1996 No. 211; 1999 No. 81; 2007 No. 314
c. 418.325	am. 1996 No. 211
c. 418.325A	ad. 2002 No. 348
c. 418.326	ad. 1999 No. 8
c. 418.327	ad. 1999 No. 259 am. 2000 No. 62
c. 418.328	ad. 2005 No. 134
Note to c. 418.412	rep. 1996 No. 75
c. 418.612	am. 1999 No. 81
c. 418.711	am. 1999 No. 81 rs. 2005 No. 134
c. 418.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 419	
c. 419.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133; 2008 No. 205
c. 419.221	am. 1999 No. 81
c. 419.225	am. 1996 No. 211; 1999 No. 81 rs. 2007 No. 314
c. 419.227	am. 1996 No. 211
c. 419.228	rs. 2002 No. 348
c. 419.229	am. 1999 No. 81
c. 419.230	ad. 1999 No. 8
c. 419.231	ad. 2005 No. 134
c. 419.311	am. 1999 No. 81
c. 419.312	am. 1999 No. 81
c. 419.313	rep. 2002 No. 348
c. 419.321	am. 1999 No. 81
c. 419.323	am. 1996 No. 211; 1999 No. 81; 2007 No. 314
c. 419.324	am. 1996 No. 211
c. 419.324A	ad. 2002 No. 348
c. 419.325	ad. 1999 No. 8
c. 419.326	ad. 1999 No. 259 am. 2000 No. 62
c. 419.327	ad. 2005 No. 134
Note to c. 419.412	rep. 1996 No. 75
c. 419.612	am. 1999 No. 81
c. 419.711	am. 1999 No. 81 rs. 2005 No. 134
c. 419.712	ad. 2005 No. 134
Part 420	
c. 420.111	am. 2002 No. 10
c. 420.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2002 No. 348; 2005 No. 133; 2008 No. 205
c. 420.221	am. 1995 No. 38; 1999 No. 81 rs. 2002 No. 348
c. 420.222	am. 1994 No. 322; 2003 No. 94
c. 420.224	am. 1995 No. 38; 2008 No. 166
c. 420.226	am. 1996 No. 211; 1999 No. 81 rs. 2007 No. 314
c. 420.228	am. 1996 No. 211; 2002 No. 348
c. 420.229	rs. 2002 No. 348
c. 420.230	am. 1999 No. 81; 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 420.231	ad. 1999 No. 8
c. 420.232	ad. 2005 No. 134
c. 420.311	am. 1999 No. 81
c. 420.312	am. 2002 No. 348
c. 420.313	am. 2002 No. 348 rep. 2002 No. 348
c. 420.321	am. 1999 No. 81
c. 420.324	am. 1996 No. 211; 1999 No. 81; 2007 No. 314
c. 420.325	am. 1996 No. 75; 2002 No. 348
c. 420.325A.....	ad. 2002 No. 348 rs. 2003 No. 94
c. 420.326	ad. 1999 No. 8
c. 420.327	ad. 1999 No. 259 am. 2000 No. 62
c. 420.328	ad. 2005 No. 134
c. 420.411	am. 2002 No. 348
c. 420.412	am. 2002 No. 348
Note to c. 420.412.....	rep. 1996 No. 75
c. 420.612	am. 1999 No. 81
c. 420.711	am. 1999 No. 81 rs. 2002 No. 348; 2004 No. 93; 2005 No. 134
c. 420.712	ad. 2004 No. 93 rs. 2005 No. 134
Part 421	
c. 421.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133; 2008 No. 205
c. 421.221	am. 1999 No. 81
c. 421.222	am. 1997 No. 109; 1999 No. 81
c. 421.223	am. 1997 No. 109
c. 421.224	am. 1997 No. 109
c. 421.224A.....	ad. 2008 No. 166
c. 421.225	am. 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 421.227	am. 1996 No. 75
c. 421.228	am. 2002 No. 348
c. 421.229	am. 1997 No. 109
c. 421.230	am. 1999 No. 81
c. 421.231	ad. 1999 No. 8
c. 421.232	ad. 2005 No. 134
c. 421.311	am. 1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 421.312	am. 1999 No. 81
c. 421.313	am. 1999 No. 81 rep. 2002 No. 348
c. 421.321	am. 1999 No. 81
c. 421.324	am. 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 421.325	am. 1996 No. 75
c. 421.325A	ad. 2002 No. 348
c. 421.326	ad. 1999 No. 8
c. 421.327	ad. 1999 No. 259 am. 2000 No. 62
c. 421.328	ad. 2005 No. 134
Note to c. 421.412	rep. 1996 No. 75
c. 421.612	am. 1999 No. 81
c. 421.711	rs. 2005 No. 134
c. 421.712	ad. 2005 No. 134
Part 422	
Note to Subdiv. 422.21	rs. 2004 No. 21
c. 422.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2004 No. 21; 2005 No. 133; 2007 No. 257; 2008 No. 205
c. 422.221	am. 1999 No. 81 rs. 2004 No. 21
c. 422.222	am. 1995 No. 38; 2008 No. 166
c. 422.224	am. 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 422.226	am. 1996 No. 75; 2004 No. 21
c. 422.227	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 Nos. 8 and 132; 2002 Nos. 86 and 348 rs. 2004 No. 21
c. 422.227A	ad. 2004 No. 21
c. 422.227B	ad. 2004 No. 21 am. 2005 No. 133; 2008 No. 205
c. 422.228	am. 1999 No. 81 rs. 2004 No. 21
c. 422.229	ad. 1999 No. 8
c. 422.230	ad. 2005 No. 134
c. 422.311	am. 1999 No. 81
c. 422.312	rs. 2004 No. 21
c. 422.313	rep. 2002 No. 348
c. 422.321	am. 1999 No. 81
c. 422.323	am. 1996 No. 75; 1999 No. 81; 2007 No. 314

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 422.326	am. 1996 No. 75; 2004 No. 21
c. 422.326A	ad. 2002 No. 348 am. 2004 No. 21
c. 422.327	ad. 1999 No. 8
c. 422.328	ad. 1999 No. 259 am. 2000 No. 62
c. 422.329	ad. 2005 No. 134
c. 422.411	am. 2004 No. 21
c. 422.412	am. 2004 No. 21
Note to c. 422.412	rep. 1996 No. 75
c. 422.612	am. 1999 No. 81; 2004 No. 21
c. 422.711	rs. 2005 No. 134
c. 422.712	ad. 2005 No. 134
Part 423	
c. 423.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133; 2008 No. 205
c. 423.221	am. 1996 No. 75; 1999 No. 81
c. 423.222	am. 1997 No. 109
c. 423.223	am. 1995 No. 38; 1999 No. 81; 2008 No. 166
c. 423.225	am. 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 423.227	am. 1996 No. 75
c. 423.228	rs. 2002 No. 348
c. 423.229	am. 1995 No. 268; 1996 No. 76; 1997 No. 109; 1999 No. 81
c. 423.230	am. 1999 No. 81
c. 423.231	ad. 1999 No. 8
c. 423.232	ad. 2005 No. 134
c. 423.311	am. 1999 No. 81
c. 423.313	rep. 2002 No. 348
c. 423.321	am. 1999 No. 81
c. 423.324	am. 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 423.325	am. 1996 No. 75
c. 423.325A	ad. 2002 No. 348
c. 423.326	ad. 1999 No. 8
c. 423.327	ad. 1999 No. 259 am. 2000 No. 62
c. 423.328	ad. 2005 No. 134
Note to c. 423.412	rep. 1996 No. 75
c. 423.612	am. 1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 423.711	rs. 2005 No. 134
c. 423.712	ad. 2005 No. 134
Part 424	rep. 2005 No. 240
Note to Subdiv. 424.21	rep. 2005 No. 240
c. 424.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1997 No. 109; 1999 No. 81; 2005 No. 133 rep. 2005 No. 240
c. 424.221	am. 1999 No. 81 rep. 2005 No. 240
c. 424.222	rep. 2005 No. 240
c. 424.223	rep. 2005 No. 240
c. 424.224	am. 1997 No. 109 rep. 2005 No. 240
c. 424.225	am. 1995 No. 38 rep. 2005 No. 240
c. 424.226	am. 1996 No. 75; 1999 No. 81 rep. 2005 No. 240
c. 424.227	rep. 2005 No. 240
c. 424.228	am. 1995 No. 38; 1996 No. 75 rs. 1999 No. 81 rep. 2005 No. 240
c. 424.229	am. 1995 No. 268; 1996 No. 76; 1997 No. 109; 1999 No. 81 rep. 2005 No. 240
c. 424.230	rs. 2002 No. 348 rep. 2005 No. 240
c. 424.231	am. 1999 No. 81 rep. 2005 No. 240
c. 424.232	ad. 1999 No. 8 rep. 2005 No. 240
c. 424.233	ad. 2005 No. 134 rep. 2005 No. 240
c. 424.311	am. 1999 No. 81 rep. 2005 No. 240
c. 424.312	rep. 2005 No. 240
c. 424.313	rep. 2002 No. 348
c. 424.321	am. 1999 No. 81 rep. 2005 No. 240
c. 424.322	am. 1999 No. 81 rep. 2005 No. 240
c. 424.323	rep. 2005 No. 240
c. 424.324	am. 1996 No. 75; 1999 No. 81 rep. 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 424.326	am. 1995 No. 38; 1996 No. 75 rs. 1999 No. 81 rep. 2005 No. 240
c. 424.326A	ad. 2002 No. 348 rep. 2005 No. 240
c. 424.327	ad. 1999 No. 8 rep. 2005 No. 240
c. 424.328	ad. 1999 No. 259 am. 2000 No. 62 rep. 2005 No. 240
c. 424.329	ad. 2005 No. 134 rep. 2005 No. 240
c. 424.411	rep. 2005 No. 240
c. 424.412	rep. 2005 No. 240
Note to c. 424.412	rep. 1996 No. 75
c. 424.511	rep. 2005 No. 240
c. 424.611	rs. 1994 No. 280 rep. 2005 No. 240
c. 424.612	rs. 1994 No. 280 rep. 2005 No. 240
c. 424.711	rs. 2005 No. 134 rep. 2005 No. 240
c. 424.712	ad. 2005 No. 134 rep. 2005 No. 240
Part 425	rep. 2005 No. 240
c. 425.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133 rep. 2005 No. 240
c. 425.221	am. 1999 No. 81 rep. 2005 No. 240
c. 425.222	rep. 2005 No. 240
c. 425.223	rep. 2005 No. 240
c. 425.224	am. 1996 No. 75; 1997 No. 354 rep. 2005 No. 240
c. 425.225	rep. 2005 No. 240
c. 425.226	am. 1996 No. 75 rep. 2005 No. 240
c. 425.227	rs. 2002 No. 348 rep. 2005 No. 240
c. 425.228	am. 1999 No. 81 rep. 2005 No. 240
c. 425.229	ad. 2005 No. 134 rep. 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 425.311	am. 1999 No. 81 rep. 2005 No. 240
c. 425.312	rep. 2005 No. 240
c. 425.313	rep. 2002 No. 348
c. 425.321	am. 1999 No. 81 rep. 2005 No. 240
c. 425.322	am. 1999 No. 81 rep. 2005 No. 240
c. 425.323	am. 1996 No. 75; 1997 No. 354 rep. 2005 No. 240
c. 425.324	am. 1996 No. 75 rep. 2005 No. 240
c. 425.324A	ad. 2002 No. 348 rep. 2005 No. 240
c. 425.325	ad. 1999 No. 259 am. 2000 No. 62 rep. 2005 No. 240
c. 425.326	ad. 2005 No. 134 rep. 2005 No. 240
c. 425.411	rep. 2005 No. 240
c. 425.412	rep. 2005 No. 240
Note to c. 425.412	rep. 1996 No. 75
c. 425.511	rep. 2005 No. 240
c. 425.611	rep. 2005 No. 240
c. 425.612	am. 1999 No. 81 rep. 2005 No. 240
c. 425.711	rs. 2005 No. 134 rep. 2005 No. 240
c. 425.712	ad. 2005 No. 134 rep. 2005 No. 240
Part 426	
c. 426.111	am. 1999 No. 81
Note to Div. 426.2	rs. 2006 No. 159
c. 426.211	am. 1999 No. 81
c. 426.221	am. 1995 No. 38; 1999 No. 81
c. 426.222	am. 2006 No. 159
c. 426.224	am. 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 426.225	rs. 2002 No. 348
c. 426.226	am. 1996 No. 75
c. 426.227	am. 2006 No. 159
c. 426.229	am. 1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 426.230	ad. 2005 No. 134
Div. 426. 3.....	rs. 2006 No. 159
c. 426.311	am. 1999 No. 81 rep. 2006 No. 159
c. 426.312	rep. 2006 No. 159
c. 426.313	rep. 2002 No. 348
c. 426.321	am. 1999 No. 81 rep. 2006 No. 159
c. 426.323	rep. 2006 No. 159
c. 426.324	rep. 2006 No. 159
c. 426.325	am. 1996 No. 75; 1999 No. 81 rep. 2006 No. 159
c. 426.326	am. 1996 No. 75 rs. 1998 No. 304 rep. 2006 No. 159
c. 426.326A.....	ad. 2002 No. 348 rep. 2006 No. 159
c. 426.327	ad. 1999 No. 259 am. 2000 No. 62 rep. 2006 No. 159
c. 426.328	ad. 2005 No. 134 rep. 2006 No. 159
Note to c. 426.412.....	rep. 1996 No. 75
c. 426.611	rs. 2006 No. 159
c. 426.612	am. 1999 No. 81; 2006 No. 159
c. 426.711	rs. 2005 No. 134
c. 426.712	ad. 2005 No. 134
Part 427	
c. 427.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133; 2008 No. 205
c. 427.221	am. 1999 No. 81
c. 427.222	am. 1996 No. 76; 1997 No. 263; 2001 No. 162; 2003 No. 239
c. 427.228	am. 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 427.230	am. 1996 No. 75
c. 427.231	am. 1995 Nos. 38 and 117; 2008 No. 166
c. 427.232	rs. 2002 No. 348
c. 427.233	am. 1999 No. 81
c. 427.234	ad. 2005 No. 134
c. 427.311	am. 1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 427.313	rep. 2002 No. 348
c. 427.321	am. 1999 No. 81
c. 427.324	am. 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 427.325	am. 1996 No. 75
c. 427.325A	ad. 2002 No. 348
c. 427.326	ad. 1999 No. 259 am. 2000 No. 62
c. 427.327	ad. 2005 No. 134
Note to c. 427.412	rep. 1996 No. 75
c. 427.612	am. 1999 No. 81
c. 427.711	rs. 2005 No. 134
c. 427.712	ad. 2005 No. 134
Part 428	
c. 428.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133; 2008 No. 205
c. 428.221	am. 1999 No. 81
c. 428.222	am. 1995 No. 38 rs. 2008 No. 166
c. 428.222A	ad. 2003 No. 94
c. 428.224	rep. 1996 No. 75
c. 428.225	am. 1996 No. 75; 1999 No. 81 rs. 2007 No. 314
c. 428.227	am. 1996 No. 75
c. 428.228	rs. 2002 No. 348
c. 428.229	am. 1999 No. 81
c. 428.230	ad. 1999 No. 8
c. 428.231	ad. 2005 No. 134
c. 428.311	am. 1999 No. 81
c. 428.313	rep. 2002 No. 348
c. 428.321	am. 1999 No. 81
c. 428.323	am. 1996 No. 75; 1999 No. 81; 2007 No. 314
c. 428.324	am. 1996 No. 75
c. 428.324A	ad. 2002 No. 348
c. 428.325	ad. 1999 No. 8
c. 428.326	ad. 1999 No. 259 am. 2000 No. 62
c. 428.327	ad. 2005 No. 134
Note to c. 428.412	rep. 1996 No. 75
c. 428.611	rs. 1996 No. 75
c. 428.612	rs. 1996 No. 75

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 428.711	rs. 2005 No. 134
c. 428.712	ad. 2005 No. 134
Part 430	rep. 2005 No. 240
Heading to Part 430	am. 1999 No. 81 rep. 2005 No. 240
c. 430.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 Nos. 81 and 132; 2005 No. 133 rep. 2005 No. 240
c. 430.221	am. 1999 No. 81 rep. 2005 No. 240
c. 430.222	rs. 1997 No. 263 rep. 2005 No. 240
c. 430.222A	ad. 1997 No. 263 rep. 2005 No. 240
c. 430.223	am. 1996 No. 75; 1999 No. 81 rep. 2005 No. 240
c. 430.224	rep. 2005 No. 240
c. 430.225	am. 1996 No. 75 rep. 2005 No. 240
c. 430.226	rs. 2002 No. 348 rep. 2005 No. 240
c. 430.227	am. 1999 No. 81 rep. 2005 No. 240
c. 430.228	ad. 2005 No. 134 rep. 2005 No. 240
c. 430.311	am. 1999 No. 81 rep. 2005 No. 240
c. 430.312	rep. 2005 No. 240
c. 430.313	rep. 2002 No. 348
c. 430.321	am. 1999 No. 81 rep. 2005 No. 240
c. 430.322	rep. 2005 No. 240
c. 430.323	am. 1998 No. 304 rep. 2005 No. 240
c. 430.324	am. 1996 No. 75 rep. 2005 No. 240
c. 430.324A	ad. 2002 No. 348 rep. 2005 No. 240
c. 430.325	ad. 1999 No. 259 am. 2000 No. 62 rep. 2005 No. 240
c. 430.326	ad. 2005 No. 134 rep. 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 430.411	rep. 2005 No. 240
c. 430.412	rep. 2005 No. 240
Note to c. 430.412.....	rep. 1996 No. 75
c. 430.511	rep. 2005 No. 240
c. 430.611	am. 1999 No. 81 rep. 2005 No. 240
c. 430.711	rs. 2005 No. 134 rep. 2005 No. 240
c. 430.712	ad. 2005 No. 134 rep. 2005 No. 240
Part 432	rep. 2005 No. 240
c. 432.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 No. 133 rep. 2005 No. 240
c. 432.221	am. 1999 No. 81 rep. 2005 No. 240
c. 432.222	rep. 2005 No. 240
c. 432.223	rep. 2005 No. 240
c. 432.224	rep. 2005 No. 240
c. 432.225	rep. 2005 No. 240
c. 432.226	rep. 2005 No. 240
c. 432.227	am. 1996 No. 75; 1999 No. 81 rep. 2005 No. 240
c. 432.228	rep. 2005 No. 240
c. 432.229	am. 1996 No. 75 rep. 2005 No. 240
c. 432.230	am. 2002 No. 348 rep. 2005 No. 240
c. 432.231	am. 1999 No. 81 rep. 2005 No. 240
c. 432.232	ad. 1999 No. 8 rep. 2005 No. 240
c. 432.233	ad. 2005 No. 134 rep. 2005 No. 240
c. 432.311	am. 1999 No. 81 rep. 2005 No. 240
c. 432.312	rep. 2005 No. 240
c. 432.313	rep. 2002 No. 348
c. 432.321	am. 1999 No. 81 rep. 2005 No. 240
c. 432.322	rep. 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 432.323	am. 1996 No. 75; 1999 No. 81 rep. 2005 No. 240
c. 432.324	am. 1996 No. 75 rep. 2005 No. 240
c. 432.324A	ad. 2002 No. 348 rep. 2005 No. 240
c. 432.325	ad. 1999 No. 8 rep. 2005 No. 240
c. 432.326	ad. 1999 No. 259 am. 2000 No. 62 rep. 2005 No. 240
c. 432.327	ad. 2005 No. 134 rep. 2005 No. 240
c. 432.411	rep. 2005 No. 240
c. 432.412	rep. 2005 No. 240
Note to c. 432.412	rep. 1996 No. 75
c. 432.511	rep. 2005 No. 240
c. 432.611	rep. 2005 No. 240
c. 432.612	am. 1994 No. 376; 1999 No. 81 rep. 2005 No. 240
c. 432.711	am. 1999 No. 81 rs. 2005 No. 134 rep. 2005 No. 240
c. 432.712	ad. 2005 No. 134 rep. 2005 No. 240
Part 435	rep. 1998 No. 104
Heading to Part 435	am. 1994 No. 376 rep. 1998 No. 104
c. 435.211	rep. 1998 No. 37
c. 435.212	rep. 1998 No. 104
c. 435.213	rs. 1995 No. 38 rep. 1995 No. 411 ad. 1996 No. 121 rs. 1997 No. 184 rep. 1998 No. 104
c. 435.214	am. 1994 No. 376; 1995 Nos. 38 and 268 rs. 1996 No. 121 am. 1997 No. 184 rep. 1998 No. 104
cc. 435.221, 435.222	rep. 1998 No. 104
c. 435.411	rep. 1998 No. 104

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 435.511	am. 1994 No. 376; 1995 Nos. 38 and 268 rs. 1996 No. 121 am. 1997 No. 184 rep. 1998 No. 104
c. 435.611	rep. 1998 No. 104
c. 435.711	rep. 1998 No. 104
Part 442	
Div. 442.1	rs. 2005 No. 240
Note to Div. 442.1	rep. 2005 No. 240
c. 442.111	ad. 2005 No. 240
c. 442.211	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81; 2005 Nos. 133 and 240 rs. 2007 No. 69
c. 442.221	am. 1999 No. 81
c. 442.222	am. 2005 No. 240
c. 442.223	rs. 2001 No. 239 am. 2005 No. 240
c. 442.225	am. 1996 No. 75; 1999 No. 81 rs. 2005 No. 240 am. 2007 No. 314
c. 442.227	am. 1996 No. 75
c. 442.228	rs. 2002 No. 348
c. 442.229	am. 1999 No. 81 rs. 2001 No. 86; 2005 No. 240; 2007 No. 69
c. 442.230	am. 1999 No. 81
c. 442.231	ad. 1999 No. 8
c. 442.232	ad. 2005 No. 134
c. 442.233	ad. 2005 No. 240
c. 442.311	am. 1999 No. 81
c. 442.313	rep. 2002 No. 348
c. 442.321	am. 1999 No. 81
c. 442.323	am. 1996 No. 75; 1999 No. 81; 2005 No. 240; 2007 No. 314
c. 442.324	am. 1996 No. 75
c. 442.324A	ad. 2002 No. 348
c. 442.325	ad. 1999 No. 8
c. 442.326	ad. 1999 No. 259 am. 2000 No. 62
c. 442.327	ad. 2005 No. 134
Note to c. 442.412	rep. 1996 No. 75
c. 442.611	am. 2001 No. 162; 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 442.612	am. 2005 No. 240
c. 442.613	am. 1999 No. 81
c. 442.711	rs. 2005 No. 134
c. 442.712	ad. 2005 No. 134
Part 443	rep. 1998 No. 104
c. 443.211	am. 1995 No. 268 rep. 1998 No. 37
c. 443.212	rep. 1998 No. 104
c. 443.213	rs. 1995 No. 38 rep. 1995 No. 411 ad. 1996 No. 121 rs. 1997 No. 184 rep. 1998 No. 104
c. 443.214	am. 1994 No. 376; 1995 Nos. 38 and 268 rs. 1996 No. 121 am. 1997 No. 184 rep. 1998 No. 104
cc. 443.221, 443.222.....	rep. 1998 No. 104
c. 443.411	rep. 1998 No. 104
c. 443.511	am. 1994 No. 376; 1995 Nos. 38 and 268 rs. 1996 No. 121 am. 1997 No. 184 rep. 1998 No. 104
c. 443.611	rep. 1998 No. 104
c. 443.711	rep. 1998 No. 104
Part 444	
Note to Div. 444.1	rs. 1999 No. 81
Heading to Div. 444.2.....	ad. 1999 No. 81
Note to Div. 444.2	rs. 1995 No. 117 am. 2007 No. 190
Div. 444.2.....	rep. 1995 No. 117
cc. 444.211–444.221.....	rep. 1995 No. 117
Note to c. 444.411.....	rs. 1996 No. 75
Div. 444.7.....	rs. 2007 No. 190
c. 444.711	rs. 2007 No. 190
c. 444.712	ad. 2007 No. 190
Part 445	
Div. 445.1.....	rs. 2002 No. 86 am. 2002 No. 230
c. 445.111	ad. 2002 No. 230 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 445.211	am. 1996 No. 211; 1999 No. 259; 2002 No. 86 rs. 2002 No. 230
Subdiv. 445.22	rs. 2002 No. 86
c. 445.221	rs. 2002 No. 86
c. 445.222	am. 1995 No. 268 rs. 2002 No. 86
c. 445.223	am. 2000 No. 62 rs. 2002 No. 86 am. 2007 No. 315
Note to c. 445.223 (4)	am. 2007 No. 315
c. 445.224	ad. 2002 No. 86
c. 445.225	ad. 2002 No. 86 rs. 2007 No. 314
c. 445.226	ad. 2002 No. 86
c. 445.227	ad. 2002 No. 86 am. 2007 No. 314
c. 445.228	ad. 2002 No. 86
c. 445.229	ad. 2005 No. 134
Div. 445.3	rs. 2002 No. 86
c. 445.311	ad. 2002 No. 86
c. 445.312	ad. 2002 No. 86
c. 445.321	ad. 2002 No. 86
c. 445.322	ad. 2002 No. 86
c. 445.323	ad. 2002 No. 86
c. 445.324	ad. 2002 No. 86 rs. 2007 No. 314
c. 445.325	ad. 2002 No. 86
c. 445.326	ad. 2005 No. 134
c. 445.411	rs. 2002 No. 230
c. 445.412	ad. 2002 No. 230
c. 445.511	am. 1996 No. 211; 1999 No. 259
c. 445.711	rs. 2005 No. 134
c. 445.712	ad. 2005 No. 134
Part 446	rep. 2005 No. 240
c. 446.111	am. 1999 No. 81 rep. 2005 No. 240
c. 446.211	am. 1999 No. 81 rep. 2005 No. 240
c. 446.221	am. 1999 No. 81 rep. 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 446.222	ad. 2005 No. 134 rep. 2005 No. 240
c. 446.411	rep. 2005 No. 240
Note to c. 446.411	rep. 1996 No. 75
c. 446.511	rep. 2005 No. 240
c. 446.611	am. 1999 No. 81 rep. 2005 No. 240
c. 446.711	rs. 2005 No. 134 rep. 2005 No. 240
c. 446.712	ad. 2005 No. 134 rep. 2005 No. 240
Part 447	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.211	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.221	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.222	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.223	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.224	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.225	ad. Act No. 128, 2001 am. 2006 No. 10 rs. 2007 No. 314 rep. 2008 No. 168
c. 447.226	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.227	ad. Act No. 128, 2001 am. 2006 No. 10; 2007 No. 314 rep. 2008 No. 168
c. 447.311	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.321	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.322	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.323	ad. Act No. 128, 2001 am. 2006 No. 10; 2007 No. 314 rep. 2008 No. 168
c. 447.411	ad. Act No. 128, 2001 rep. 2008 No. 168

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 447.511	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.611	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.612	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.613	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 447.711	ad. Act No. 128, 2001 rs. 2005 No. 134 rep. 2008 No. 168
c. 447.712	ad. 2005 No. 134 rep. 2008 No. 168
Part 448	
Part 448	ad. 1999 No. 58
c. 448.221	ad. 1999 No. 58 am. 2000 No. 52
c. 448.222	ad. 1999 No. 58 rep. 2000 No. 52
c. 448.223	ad. 1999 No. 58
c. 448.224	ad. 1999 No. 58
c. 448.225	ad. 1999 No. 58
c. 448.226	ad. 1999 No. 259 am. 2000 No. 62
c. 448.321	ad. 1999 No. 58 am. 1999 No. 81
c. 448.322	ad. 1999 No. 58
c. 448.323	ad. 1999 No. 58
c. 448.324	ad. 1999 No. 259 am. 2000 No. 62
c. 448.411	ad. 1999 No. 58
c. 448.511	ad. 1999 No. 58
c. 448.611	ad. 1999 No. 58 am. 1999 No. 155
c. 448.612	ad. 1999 No. 58 am. 1999 No. 155
c. 448.613	ad. 1999 No. 58
c. 448.711	ad. 1999 No. 58 rs. 2005 No. 134
c. 448.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 449	
Part 449	ad. 1999 No. 82
c. 449.221	ad. 1999 No. 82 am. 1999 No. 198
c. 449.222	ad. 1999 No. 82 rep. 1999 No. 198
c. 449.223	ad. 1999 No. 82
c. 449.224	ad. 1999 No. 82 rs. 1999 No. 198 am. 2006 No. 10
c. 449.321	ad. 1999 No. 82
c. 449.322	ad. 1999 No. 82 rs. 1999 No. 198 am. 2006 No. 10
c. 449.323	ad. 1999 No. 259 am. 2000 No. 62
c. 449.411	ad. 1999 No. 82
c. 449.412	ad. 1999 No. 82
c. 449.511	ad. 1999 No. 82
c. 449.611	ad. 1999 No. 82
c. 449.612	ad. 1999 No. 82 rs. 1999 No. 220
c. 449.612A	ad. 1999 No. 220
c. 449.613	ad. 1999 No. 198
c. 449.711	ad. 1999 No. 82 rs. 2005 No. 134
c. 449.712	ad. 2005 No. 134
Part 450	
Part 450	ad. 1997 No. 279
Note to Div. 450.1	ad. 1997 No. 279 rs. 1998 No. 36
c. 450.211	ad. 1997 No. 279 am. 1998 No. 36; 2009 No. 144
c. 450.212	ad. 1997 No. 279 rs. 1998 No. 36 am. 2009 No. 144
c. 450.213	ad. 1997 No. 279 rs. 1998 No. 36 am. 2009 No. 144
c. 450.221	ad. 1997 No. 279
c. 450.222	ad. 1997 No. 279

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 450.223	ad. 1997 No. 279 am. 1999 No. 81
c. 450.224	ad. 1997 No. 279
c. 450.225	ad. 1997 No. 279
c. 450.226	ad. 1997 No. 279 am. 2000 No. 62
c. 450.411	ad. 1997 No. 279
c. 450.511	ad. 1997 No. 279
c. 450.611	ad. 1997 No. 279
c. 450.612	ad. 1997 No. 279
c. 450.711	ad. 1997 No. 279
Part 451	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.211	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.221	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.222	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.223	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.224	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.225	ad. Act No. 128, 2001 am. 2006 No. 10 rs. 2007 No. 314 rep. 2008 No. 168
c. 451.226	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.227	ad. Act No. 128, 2001 am. 2006 No. 10; 2007 No. 314 rep. 2008 No. 168
c. 451.311	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.321	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.322	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.323	ad. Act No. 128, 2001 am. 2006 No. 10; 2007 No. 314 rep. 2008 No. 168
c. 451.411	ad. Act No. 128, 2001 rep. 2008 No. 168

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 451.511	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.611	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.612	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.613	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 451.711	ad. Act No. 128, 2001 rs. 2005 No. 134 rep. 2008 No. 168
c. 451.712	ad. 2005 No. 134 rep. 2008 No. 168
Part 456	
Part 456	ad. 1995 No. 268
Note to Div. 456.1	ad. 2005 No. 133
c. 456.111	ad. 1995 No. 268 rep. 2005 No. 133
c. 456.112	ad. 1995 No. 268 rep. 2005 No. 133
c. 456.211	ad. 1995 No. 268 rs. 1996 No. 76 am. 1997 No. 288
c. 456.212	ad. 1995 No. 268 rs. 1996 No. 76
c. 456.213	ad. 1995 No. 268
c. 456.214	ad. 1995 No. 268 rep. 1997 No. 288
c. 456.221	ad. 1995 No. 268 am. 1995 No. 302; 1996 Nos. 75 and 76; 1997 No. 288; 1999 No. 81; 2002 No. 86
c. 456.222	ad. 1999 No. 8
c. 456.223	ad. 2005 No. 134
c. 456.311	ad. 1995 No. 268 rs. 1996 No. 76 am. 2009 No. 144
c. 456.312	ad. 1995 No. 268 rep. 1997 No. 288
c. 456.313	ad. 1995 No. 268
c. 456.321	ad. 1995 No. 268 am. 2009 No. 144
c. 456.322	ad. 1995 No. 268

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 456.323	ad. 1995 No. 268 am. 1996 No. 75 rs. 1996 No. 76 am. 2009 No. 144
c. 456.324	ad. 1995 No. 268 am. 1996 No. 75 rep. 1997 No. 288
c. 456.325	ad. 1995 No. 268 am. 1996 No. 75; 1997 No. 288
c. 456.326	ad. 1995 No. 268 am. 2000 No. 62
c. 456.327	ad. 1995 No. 268
c. 456.328	ad. 1999 No. 8
c. 456.329	ad. 2005 No. 134
c. 456.411	ad. 1995 No. 268 rs. 1997 No. 288
c. 456.412	ad. 1995 No. 268 rep. 1997 No. 288
c. 456.511	ad. 1995 No. 268 am. 1996 No. 76; 1997 No. 64 rs. 1997 Nos. 137 and 288 am. 2002 No. 86
c. 456.512	ad. 1995 No. 268 am. 1996 No. 76; 1997 No. 64 rep. 1997 No. 137
c. 456.513	ad. 1995 No. 268 rep. 1997 No. 288
c. 456.514	ad. 1995 No. 268 am. 2009 No. 144
c. 456.611	ad. 1995 No. 268
c. 456.612	ad. 1999 No. 220
c. 456.711	ad. 1995 No. 268 rs. 1995 No. 411; 2005 No. 134
c. 456.712	ad. 2005 No. 134
Part 457	
Part 457	ad. 1996 No. 76
c. 457.111	ad. 1996 No. 76 am. 2001 No. 162; 2007 No. 190
Note to c. 457.111 (2)	am. 2003 No. 154 rs. 2003 No. 239
Note to Div. 457.2	rs. 2006 No. 123 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 457.211	ad. 1996 No. 76 am. 1999 Nos. 76 and 81; 2001 No. 162; 2005 Nos. 133 and 240; 2007 Nos. 191 and 257; 2008 Nos. 189 and 205
c. 457.212	ad. 1999 No. 76 rs. 2002 No. 86 am. 2003 No. 239
c. 457.221	ad. 1996 No. 76 rs. 2002 No. 348 am. 2003 No. 363; 2004 No. 390
c. 457.221A	ad. 2004 No. 390
c. 457.222	ad. 1996 No. 76 am. 1999 No. 8 rep. 1999 No. 76
c. 457.223	ad. 1996 No. 76 am. 1997 No. 288; 1999 Nos. 76 and 81; 2000 No. 62; 2001 Nos. 162 and 239; 2002 Nos. 10, 213 and 348; 2003 Nos. 154 and 239; 2004 Nos. 131 and 390; 2006 No. 133; 2007 Nos. 190, 273 and 275; 2009 No. 67; 2009 No. 144
c. 457.223A	ad. 2007 No. 190
c. 457.224	ad. 1996 No. 76 am. 2001 No. 239; 2007 No. 314
c. 457.225	ad. 1996 No. 76 am. 2003 No. 363; 2004 No. 390
c. 457.226	ad. 1999 No. 8 am. 2003 No. 239
c. 457.227	ad. 2001 No. 239 am. 2007 No. 314
c. 457.227A	ad. 2006 No. 123 am. 2007 No. 314; 2009 No. 144
c. 457.228	ad. 2005 No. 134
c. 457.321	ad. 1996 No. 76 rs. 2006 No. 123; 2009 No. 144
c. 457.321A	ad. 2009 No. 42 rep. 2009 No. 144
c. 457.322	ad. 1996 No. 76 rs. 2003 Nos. 94 and 363
c. 457.323	ad. 1996 No. 76 rs. 2002 No. 348 am. 2003 No. 363; 2004 No. 390
c. 457.324	ad. 1996 No. 76 am. 2003 No. 154; 2004 No. 390
c. 457.324A	ad. 2004 No. 131 rs. 2006 No. 123; 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 457.324B	ad. 2007 No. 190
c. 457.324C	ad. 2007 No. 190
c. 457.325	ad. 1996 No. 76 am. 2001 No. 239; 2006 No. 123 rs. 2007 No. 314 am. 2009 No. 144
c. 457.326	ad. 1996 No. 76 am. 2003 No. 363; 2005 No. 54
c. 457.327	ad. 1999 No. 8
c. 457.328	ad. 1999 No. 76 am. 2000 No. 62
c. 457.329	ad. 2005 No. 134
Div. 457.4	ad. 1999 No. 76 rs. 2004 No. 390
c. 457.411	ad. 1996 No. 76 rs. 2004 No. 390
c. 457.412	ad. 1996 No. 76 rep. 2004 No. 390
c. 457.511	ad. 1996 No. 76 am. 2001 No. 239; 2009 Nos. 42 and 144
c. 457.611	ad. 1996 No. 76 am. 2001 No. 344; 2002 No. 348; 2003 No. 363
c. 457.711	ad. 1996 No. 76 rs. 2005 No. 134
c. 457.712	ad. 2005 No. 134
Part 459	
Part 459	ad. 2000 No. 62
Note to Div. 459.1	am. 2009 No. 144
c. 459.211	ad. 2000 No. 62
c. 459.212	ad. 2000 No. 62
c. 459.213	ad. 2000 No. 62
c. 459.214	ad. 2000 No. 62 am. 2004 No. 21
c. 459.221	ad. 2000 No. 62
c. 459.222	ad. 2000 No. 62
c. 459.223	ad. 2000 No. 62
c. 459.224	ad. 2000 No. 62
c. 459.225	ad. 2000 No. 62
c. 459.226	ad. 2000 No. 62
c. 459.227	ad. 2000 No. 62
c. 459.228	ad. 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 459.229	ad. 2005 No. 134
c. 459.311	ad. 2000 No. 62 am. 2009 No. 144
c. 459.312	ad. 2000 No. 62
c. 459.313	ad. 2000 No. 62
c. 459.321	ad. 2000 No. 62 am. 2009 No. 144
c. 459.322	ad. 2000 No. 62
c. 459.323	ad. 2000 No. 62
c. 459.324	ad. 2000 No. 62
c. 459.325	ad. 2000 No. 62
c. 459.326	ad. 2000 No. 62
c. 459.327	ad. 2000 No. 62
c. 459.328	ad. 2000 No. 62
c. 459.329	ad. 2000 No. 62
c. 459.330	ad. 2005 No. 134
c. 459.411	ad. 2000 No. 62
c. 459.511	ad. 2000 No. 62 rs. 2006 No. 123
c. 459.611	ad. 2000 No. 62 rs. 2006 No. 123
c. 459.612	ad. 2000 No. 62 rs. 2006 No. 123
c. 459.613	ad. 2000 No. 62 rs. 2006 No. 123 am. 2009 No. 144
c. 459.613A	ad. 2006 No. 123 am. 2009 No. 144
c. 459.614	ad. 2000 No. 62 rs. 2006 No. 123
c. 459.615	ad. 2000 No. 62 rs. 2006 No. 123
c. 459.711	ad. 2000 No. 62 rs. 2005 No. 134
c. 459.712	ad. 2005 No. 134
Part 461	
Part 461	ad. 2001 No. 27
c. 461.211	ad. 2001 No. 27
c. 461.212	ad. 2001 No. 27
c. 461.213	ad. 2001 No. 27
c. 461.221	ad. 2001 No. 27

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 461.222	ad. 2001 No. 27
c. 461.223	ad. 2001 No. 27 am. 2001 No. 142; 2006 No. 159 rs. 2007 No. 314
c. 461.224	ad. 2001 No. 27
c. 461.225	ad. 2001 No. 27 rs. 2002 No. 348
c. 461.226	ad. 2001 No. 27
c. 461.227	ad. 2005 No. 134
c. 461.411	ad. 2001 No. 27
c. 461.412	ad. 2001 No. 27
c. 461.511	ad. 2001 No. 27
c. 461.611	ad. 2001 No. 27
c. 461.711	ad. 2001 No. 27 rs. 2005 No. 134
c. 461.712	ad. 2005 No. 134
Part 462	
Part 462	ad. 2002 No. 230
c. 462.111	ad. 2002 No. 230 am. 2003 No. 57 rep. 2006 No. 10
Note to Div. 462.1	ad. 2006 No. 10
c. 462.211	ad. 2002 No. 230 rs. 2003 Nos. 57 and 363; 2007 No. 190
c. 462.211A	ad. 2007 No. 190
c. 462.212	ad. 2002 No. 230 rep. 2003 No. 57 ad. 2007 No. 190
c. 462.213	ad. 2002 No. 230
c. 462.214	ad. 2002 No. 230 rep. 2003 No. 363 ad. 2007 No. 190
c. 462.215	ad. 2002 No. 230
c. 462.216	ad. 2002 No. 230 am. 2003 No. 57; 2007 No. 190
c. 462.217	ad. 2002 No. 230 am. 2007 No. 190
c. 462.221	ad. 2002 No. 230 am. 2003 Nos. 57 and 363; 2006 No. 10; 2007 Nos. 190, 314 and 356
c. 462.222	ad. 2002 No. 230 rs. 2003 No. 363

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 462.223	ad. 2002 No. 230
c. 462.411	ad. 2002 No. 230 rs. 2003 No. 363
c. 462.412	ad. 2003 No. 363
c. 462.511	ad. 2002 No. 230 am. 2003 No. 363; 2008 No. 205; 2009 No. 116
c. 462.512	ad. 2003 No. 363 am. 2008 No. 205
c. 462.611	ad. 2002 No. 230 am. 2003 No. 363; 2006 No. 123
c. 462.612	ad. 2002 No. 230 rs. 2007 No. 356
c. 462.613	ad. 2003 No. 363 am. 2007 No. 190 rep. 2007 No. 356
c. 462.614	ad. 2003 No. 363 am. 2007 No. 190 rep. 2007 No. 356
c. 462.711	ad. 2002 No. 230 rs. 2005 No. 134
c. 462.712	ad. 2005 No. 134
Part 470	
Part 470	ad. 2003 No. 154
c. 470.111	ad. 2003 No. 154 rs. 2005 No. 240
c. 470.112	ad. 2005 No. 240
c. 470.221	ad. 2003 No. 154 am. 2003 No. 239
c. 470.222	ad. 2003 No. 154
c. 470.223	ad. 2003 No. 154
c. 470.224	ad. 2003 No. 154
c. 470.225	ad. 2003 No. 154 rs. 2004 No. 131
c. 470.226	ad. 2003 No. 154
c. 470.227	ad. 2003 No. 154 rs. 2005 No. 240
c. 470.228	ad. 2003 No. 154 rs. 2004 No. 131
c. 470.229	ad. 2003 No. 154
c. 470.230	ad. 2003 No. 154
c. 470.231	ad. 2003 No. 154 rs. 2007 No. 314

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 470.232	ad. 2003 No. 154
c. 470.233	ad. 2005 No. 134
c. 470.234	ad. 2005 No. 240
c. 470.411	ad. 2003 No. 154
c. 470.511	ad. 2003 No. 154
c. 470.611	ad. 2003 No. 154
c. 470.711	ad. 2003 No. 154 rs. 2005 No. 134
c. 470.712	ad. 2003 No. 154 rs. 2005 No. 134
Part 471	ad. 2005 No. 240 rep. 2007 No. 272
c. 471.111	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.211, 471.212.....	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.221–471.229.....	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.229A–471.229L	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.311, 471.312.....	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.321–471.329.....	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.329A, 471.329B.....	ad. 2005 No. 240 rep. 2007 No. 272
c. 471.411	ad. 2005 No. 240 rep. 2007 No. 272
c. 471.511	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.611, 471.612.....	ad. 2005 No. 240 rep. 2007 No. 272
cc. 471.711, 471.712.....	ad. 2005 No. 240 rep. 2007 No. 272
Part 475	
Part 475	ad. 2007 No. 257
c. 475.111	ad. 2007 No. 257
Note 1 to c. 475.111.....	rs. 2008 No. 56; 2009 No. 84
Note 2 to c. 475.111.....	rs. 2008 No. 56 rep. 2009 No. 144
Note 3 to c. 475.111.....	rs. 2008 No. 56
Note 4 to c. 475.111.....	rs. 2008 No. 56

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note 5 to c. 475.111	rs. 2008 No. 56
Note 6 to c. 475.111	rs. 2008 No. 56
Note 7 to c. 475.111	ad. 2008 No. 56 rep. 2009 No. 144
Note to Div. 475.2	am. 2009 No. 144
c. 475.211	ad. 2007 No. 257 am. 2009 No. 84
c. 475.212	ad. 2007 No. 257
c. 475.213	ad. 2007 No. 257 am. 2009 No. 144
c. 475.214	ad. 2007 No. 257 am. 2008 No. 56 rs. 2009 No. 144
c. 475.221	ad. 2007 No. 257
c. 475.222	ad. 2007 No. 257
c. 475.223	ad. 2007 No. 257
c. 475.224	ad. 2007 No. 257 rs. 2007 No. 314
c. 475.225	ad. 2007 No. 257
c. 475.226	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 475.227	ad. 2007 No. 257
c. 475.228	ad. 2007 No. 257 am. 2009 No. 144
c. 475.229	ad. 2007 No. 257
c. 475.230	ad. 2007 No. 257
Note to Div. 475.3	am. 2009 No. 144
c. 475.311	ad. 2007 No. 257 am. 2009 No. 144
c. 475.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 475.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 475.323	ad. 2007 No. 257
c. 475.324	ad. 2007 No. 257
c. 475.325	ad. 2007 No. 257
c. 475.411	ad. 2007 No. 257 rs. 2008 No. 56
c. 475.412	ad. 2007 No. 257 rs. 2008 No. 56
c. 475.511	ad. 2007 No. 257
c. 475.611	ad. 2007 No. 257

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 475.612	ad. 2007 No. 257
c. 475.613	ad. 2007 No. 257
c. 475.711	ad. 2007 No. 257
c. 475.712	ad. 2007 No. 257
Part 476	
Part 476	ad. 2007 No. 257
Note to Div. 476.2	am. 2009 No. 144
c. 476.111	ad. 2007 No. 257
Note to c. 476.111	rs. 2008 No. 56
c. 476.211	ad. 2007 No. 257
c. 476.212	ad. 2007 No. 257
c. 476.213	ad. 2007 No. 257
c. 476.221	ad. 2007 No. 257
c. 476.222	ad. 2007 No. 257 rs. 2007 No. 314
c. 476.223	ad. 2007 No. 257
c. 476.224	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 476.225	ad. 2007 No. 257 am. 2009 No. 144
c. 476.226	ad. 2007 No. 257
c. 476.227	ad. 2007 No. 257
Note to Div. 476.3	am. 2009 No. 144
c. 476.311	ad. 2007 No. 257 am. 2009 No. 144
c. 476.321	ad. 2007 No. 257 am. 2009 No. 144
c. 476.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 476.323	ad. 2007 No. 257
c. 476.324	ad. 2007 No. 257
c. 476.325	ad. 2007 No. 257
c. 476.411	ad. 2007 No. 257 rs. 2008 No. 56
c. 476.412	ad. 2007 No. 257 rs. 2008 No. 56
c. 476.511	ad. 2007 No. 257
c. 476.611	ad. 2007 No. 257
c. 476.711	ad. 2007 No. 257
c. 476.712	ad. 2007 No. 257

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 485	
Part 485	ad. 2007 No. 257
c. 485.111	ad. 2007 No. 257
Note 1 to c. 485.111	rs. 2008 No. 56; 2009 No. 84
Note 2 to c. 485.111	rs. 2008 No. 56
Note 6 to c. 485.111	rs. 2008 No. 56
Note to Div. 485.2	am. 2009 No. 144
c. 485.211	ad. 2007 No. 257
c. 485.212	ad. 2007 No. 257
c. 485.213	ad. 2007 No. 257 am. 2009 No. 84
c. 485.214	ad. 2007 No. 257
c. 485.215	ad. 2007 No. 257 am. 2008 Nos. 56 and 205
c. 485.216	ad. 2007 No. 257
c. 485.217	ad. 2007 No. 257
c. 485.221	ad. 2007 No. 257
c. 485.222	ad. 2007 No. 257 am. 2008 No 56 rep. 2008 No. 205
c. 485.223	ad. 2007 No. 257
c. 485.224	ad. 2007 No. 257 rs. 2007 No. 314
c. 485.225	ad. 2007 No. 257
c. 485.226	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 485.227	ad. 2007 No. 257 am. 2009 No. 144
c. 485.228	ad. 2007 No. 257
c. 485.229	ad. 2007 No. 257
Note to Div. 485.3	am. 2009 No. 144
c. 485.311	ad. 2007 No. 257 am. 2009 No. 144
c. 485.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 485.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 485.323	ad. 2007 No. 257
c. 485.324	ad. 2007 No. 257
c. 485.325	ad. 2007 No. 257
c. 485.411	ad. 2007 No. 257

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 485.511	ad. 2007 No. 257
c. 485.611	ad. 2007 No. 257
c. 485.612	ad. 2008 No. 56
c. 485.711	ad. 2007 No. 257
c. 485.712	ad. 2007 No. 257
Part 487	
Part 487	ad. 2007 No. 257
c. 487.111	ad. 2007 No. 257
Note 1 to c. 487.111	rs. 2008 No. 56; 2009 No. 84
Note 2 to c. 487.111	rs. 2008 No. 56
Note 3 to c. 487.111	ad. 2008 No. 56
(first occurring)	
Note 6 to c. 487.111	rs. 2008 No. 56
Note to Div. 487.2	am. 2009 No. 144
c. 487.211	ad. 2007 No. 257
c. 487.212	ad. 2007 No. 257 am. 2009 No. 84
c. 487.213	ad. 2007 No. 257 am. 2009 No. 144
c. 487.214	ad. 2007 No. 257
c. 487.215	ad. 2007 No. 257 am. 2008 No. 56
c. 487.216	ad. 2007 No. 257
c. 487.217	ad. 2007 No. 257
c. 487.221	ad. 2007 No. 257
c. 487.222	ad. 2007 No. 257
c. 487.223	ad. 2007 No. 257
c. 487.224	ad. 2007 No. 257 am. 2008 No. 56
c. 487.225	ad. 2007 No. 257
c. 487.226	ad. 2007 No. 257
c. 487.227	ad. 2007 No. 257 am. 2008 No. 56
c. 487.228	ad. 2007 No. 257 rs. 2007 No. 314; 2008 No. 56
c. 487.229	ad. 2007 No. 257
c. 487.230	ad. 2007 No. 257 am. 2007 No. 314; 2008 No. 56; 2009 No. 144
c. 487.231	ad. 2007 No. 257 am. 2008 No. 56

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 487.232	ad. 2007 No. 257 am. 2009 No. 144
c. 487.233	ad. 2007 No. 257
c. 487.234	ad. 2007 No. 257
Note to Div. 487.3	am. 2009 No. 144
c. 487.311	ad. 2007 No. 257 am. 2009 No. 144
c. 487.312	ad. 2008 No. 56 rep. 2009 No. 144
c. 487.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 487.322	ad. 2007 No. 257
c. 487.323	ad. 2007 No. 257
c. 487.324	ad. 2007 No. 257 rs. 2007 No. 314; 2008 No. 56
c. 487.325	ad. 2007 No. 257
c. 487.326	ad. 2007 No. 257
c. 487.411	ad. 2007 No. 257
c. 487.511	ad. 2007 No. 257 am. 2008 No. 56
c. 487.611	ad. 2007 No. 257 am. 2008 No. 56
c. 487.612	ad. 2007 No. 257
c. 487.613	ad. 2007 No. 257
c. 487.614	ad. 2007 No. 257
c. 487.711	ad. 2007 No. 257
c. 487.712	ad. 2007 No. 257
Part 488	
Part 488	ad. 2008 No. 189
c. 488.211	ad. 2008 No. 189
c. 488.212	ad. 2008 No. 189
c. 488.213	ad. 2008 No. 189
c. 488.221	ad. 2008 No. 189
c. 488.222	ad. 2008 No. 189
c. 488.223	ad. 2008 No. 189
c. 488.224	ad. 2008 No. 189
c. 488.225	ad. 2008 No. 189
c. 488.411	ad. 2008 No. 189
c. 488.511	ad. 2008 No. 189
c. 488.512	ad. 2008 No. 189

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 488.611	ad. 2008 No. 189
c. 488.711	ad. 2008 No. 189
Part 495	
Part 495	ad. 2004 No. 131
c. 495.111	ad. 2004 No. 131 am. 2005 No. 240
c. 495.210A	ad. 2007 No. 257
c. 495.210	ad. 2005 No. 240 am. 2006 No. 250
c. 495.211	ad. 2004 No. 131 am. 2005 Nos. 133 and 240; 2006 No. 250
c. 495.212	ad. 2004 No. 131
c. 495.213	ad. 2004 No. 131 rs. 2005 No. 133
c. 495.214	ad. 2005 No. 133 rs. 2005 No. 240
c. 495.215	ad. 2005 No. 133 rs. 2005 No. 240 am. 2006 No. 250
c. 495.216	ad. 2005 No. 133 rs. 2005 No. 240 am. 2005 No. 275
c. 495.217	ad. 2005 No. 133 rs. 2005 No. 240
c. 495.218	ad. 2005 No. 133 rs. 2005 No. 240 am. 2005 No. 275; 2006 No. 250
c. 495.219	ad. 2005 No. 133 rs. 2005 No. 240 am. 2006 No. 250
c. 495.219A	ad. 2005 No. 133 rs. 2005 No. 240
c. 495.220	ad. 2005 No. 240
c. 495.221	ad. 2004 No. 131
c. 495.222	ad. 2004 No. 131 rs. 2005 No. 240
c. 495.223	ad. 2004 No. 131
c. 495.224	ad. 2004 No. 131 rs. 2005 No. 133
c. 495.225	ad. 2004 No. 131
c. 495.226	ad. 2004 No. 131

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 495.227	ad. 2004 No. 131 am. 2005 No. 133 rs. 2005 No. 240
c. 495.228	ad. 2004 No. 131 rep. 2005 No. 240
c. 495.229	ad. 2004 No. 131
c. 495.230	ad. 2004 No. 131
c. 495.231	ad. 2004 No. 131 am. 2006 No. 250
c. 495.232	ad. 2005 No. 133 am. 2006 No. 159
c. 495.233	ad. 2005 No. 133
c. 495.234	ad. 2005 No. 134
c. 495.235	ad. 2005 No. 240
c. 495.311	ad. 2004 No. 131 rs. 2005 No. 240 am. 2006 No. 250
c. 495.312	ad. 2004 No. 131
c. 495.313	ad. 2005 No. 133 rs. 2005 No. 240
c. 495.314	ad. 2005 No. 133 rs. 2005 No. 240 am. 2006 No. 250
c. 495.315	ad. 2005 No. 133 rs. 2005 No. 240
c. 495.316	ad. 2005 No. 240
c. 495.321	ad. 2004 No. 131
c. 495.322	ad. 2004 No. 131
c. 495.323	ad. 2004 No. 131
c. 495.324	ad. 2004 No. 131 rep. 2005 No. 240
c. 495.325	ad. 2004 No. 131
c. 495.326	ad. 2005 No. 133
c. 495.327	ad. 2005 No. 134
c. 495.411	ad. 2004 No. 131 am. 2005 No. 240
c. 495.412	ad. 2004 No. 131
c. 495.511	ad. 2004 No. 131
c. 495.611	ad. 2004 No. 131
c. 495.612	ad. 2004 No. 131
c. 495.613	ad. 2004 No. 131
c. 495.614	ad. 2004 No. 131

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 495.711	ad. 2004 No. 131 rs. 2005 No. 134
c. 495.712	ad. 2005 No. 134
Part 496	
Part 496	ad. 2006 No. 159
c. 496.111	ad. 2006 No. 159 am. 2006 No. 250
c. 496.210	ad. 2007 No. 257
c. 496.211	ad. 2006 No. 159
c. 496.212	ad. 2006 No. 159 am. 2006 No. 354; 2009 No. 144
c. 496.213	ad. 2006 No. 159
c. 496.214	ad. 2006 No. 159
c. 496. 215	ad. 2006 No. 159 am. 2006 No. 250
c. 496.216	ad. 2006 No. 159
c. 496.221	ad. 2006 No. 159
c. 496.222	ad. 2006 No. 159
c. 496.223	ad. 2006 No. 159
c. 496.224	ad. 2006 No. 159
c. 496.225	ad. 2006 No. 159 rs. 2006 No. 250
c. 496.226	ad. 2006 No. 159 am. 2006 No. 250
c. 496.227	ad. 2006 No. 159
c. 496.228	ad. 2006 No. 159
c. 496.229	ad. 2006 No. 159
c. 496.230	ad. 2006 No. 159
c. 496.231	ad. 2006 No. 159
c. 496.232	ad. 2006 No. 159
c. 496.233	ad. 2006 No. 159
c. 496.234	ad. 2006 No. 159
c. 496.311	ad. 2006 No. 159
c. 496.312	ad. 2006 No. 159
c. 496.321	ad. 2006 No. 159
c. 496.322	ad. 2006 No. 159
c. 496.323	ad. 2006 No. 159
c. 496.324	ad. 2006 No. 159
c. 496.325	ad. 2006 No. 159
c. 496.326	ad. 2006 No. 159

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 496.327	ad. 2006 No. 159
c. 496.411	ad. 2006 No. 159
c. 496.412	ad. 2006 No. 159
c. 496.511	ad. 2006 No. 159
c. 496.611	ad. 2006 No. 159
c. 496.612	ad. 2006 No. 159
c. 496.613	ad. 2006 No. 159
c. 496.614	ad. 2006 No. 159
c. 496.711	ad. 2006 No. 159
c. 496.712	ad. 2006 No. 159
Part 497	
Part 497	ad. 2001 No. 162
c. 497.210	ad. 2007 No. 257
c. 497.211	ad. 2001 No. 162
c. 497.221	ad. 2001 No. 162
c. 497.222	ad. 2001 No. 162
c. 497.223	ad. 2001 No. 162 am. 2004 No. 131
c. 497.224	ad. 2001 No. 162 am. 2004 No. 131
c. 497.225	ad. 2005 No. 134
c. 497.311	ad. 2001 No. 162
c. 497.321	ad. 2001 No. 162
c. 497.322	ad. 2001 No. 162
c. 497.323	ad. 2001 No. 162
c. 497.324	ad. 2005 No. 134
c. 497.411	ad. 2001 No. 162
c. 497.511	ad. 2001 No. 162
c. 497.611	ad. 2001 No. 162
c. 497.612	ad. 2001 No. 162
c. 497.711	ad. 2001 No. 162 rs. 2005 No. 134
c. 497.712	ad. 2005 No. 134
Part 499	ad. 1999 No. 68 rep. 2002 No. 86
cc. 499.221–499.224.....	ad. 1999 No. 68 rep. 2002 No. 86
cc. 499.311, 499.312.....	ad. 1999 No. 68 rep. 2002 No. 86

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
cc. 499.321–499.323.....	ad. 1999 No. 68 rep. 2002 No. 86
c. 499.411	ad. 1999 No. 68 rep. 2002 No. 86
c. 499.511	ad. 1999 No. 68 rep. 2002 No. 86
cc. 499.611, 499.612.....	ad. 1999 No. 68 rep. 2002 No. 86
c. 499.711	ad. 1999 No. 68 rep. 2002 No. 86
Part 560	rep. 2001 No. 162
c. 560.111	rep. 2001 No. 162
c. 560.112	am. 1999 No. 81 rep. 2001 No. 162
c. 560.211	am. 1999 No. 81 rep. 2001 No. 162
c. 560.212	am. 1995 No. 268; 1996 Nos. 75 and 76; 1998 No. 305; 1999 Nos. 81 and 220 rep. 2001 No. 162
c. 560.213	rep. 2001 No. 162
c. 560.220	ad. 1998 No. 305 rep. 2001 No. 162
c. 560.221	rep. 2001 No. 162
c. 560.222	am. 1995 No. 268; 1999 Nos. 8 and 81; 2000 No. 259 rep. 2001 No. 162
c. 560.223	am. 1995 No. 268 rs. 1999 No. 8 rep. 2001 No. 162
c. 560.224	am. 1994 No. 376; 1996 No. 75; 1999 No. 81 rep. 2001 No. 162
c. 560.224A.....	ad. 1994 No. 376 am. 1995 No. 268 rep. 1996 No. 75
c. 560.225	am. 1996 No. 75; 1997 No. 354; 2000 No. 259 rep. 2001 No. 162
cc. 560.226, 560.227.....	rep. 2001 No. 162
c. 560.228	am. 1995 No. 268; 1996 Nos. 75 and 76; 1999 No. 81 rep. 2001 No. 162
c. 560.229	am. 1994 No. 280; 1999 No. 81 rep. 2001 No. 162
c. 560.230	am. 1995 No. 268; 1996 Nos. 75 and 76 rs. 1998 No. 305 am. 1999 No. 220 rep. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 560.231	rep. 2001 No. 162
c. 560.311	am. 1999 No. 81 rep. 2001 No. 162
c. 560.312	am. 1995 No. 268; 1996 No. 75; 1998 No. 305; 1999 Nos. 81 and 220 rep. 2001 No. 162
c. 560.313	rep. 2001 No. 162
c. 560.320	ad. 1998 No. 305 am. 1999 No. 259 rep. 2001 No. 162
c. 560.321	am. 1999 No. 81 rep. 2001 No. 162
c. 560.322	am. 1996 No. 75; 1997 No. 354; 2000 No. 259 rep. 2001 No. 162
c. 560.323	am. 1995 No. 268 rs. 1999 No. 8 rep. 2001 No. 162
c. 560.324	am. 1994 No. 376; 1996 No. 75; 1999 No. 81 rep. 2001 No. 162
c. 560.325	rep. 2001 No. 162
c. 560.326	am. 1999 No. 81 rep. 2001 No. 162
c. 560.327	am. 1994 No. 280; 1999 No. 81 rep. 2001 No. 162
c. 560.328	am. 1995 No. 268; 1999 Nos. 8 and 81 rep. 2001 No. 162
c. 560.329	ad. 1999 No. 259 am. 2000 No. 62 rep. 2001 No. 162
cc. 560.411, 560.412.....	rep. 2001 No. 162
Note to c. 560.412.....	rep. 1996 No. 75
c. 560.511	rs. 1998 No. 305 rep. 2001 No. 162
c. 560.611	am. 1998 No. 305; 1999 No. 220; 2000 No. 259 rep. 2001 No. 162
c. 560.612	am. 1999 No. 81 rep. 2001 No. 162
c. 560.613	am. 1994 Nos. 280 and 376; 1998 No. 305; 1999 Nos. 81 and 220; 2000 No. 259 rep. 2001 No. 162
c. 560.711	rep. 2001 No. 162
Part 562	rep. 2001 No. 162
cc. 562.211, 562.212.....	rep. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 562.221	am. 1999 No. 81 rep. 2001 No. 162
c. 562.222	am. 2000 No. 259 rep. 2001 No. 162
c. 562.223	am. 1995 No. 268 rs. 1999 No. 8 rep. 2001 No. 162
c. 562.224	rep. 2001 No. 162
c. 562.225	am. 1996 No. 75; 1999 No. 81 rep. 2001 No. 162
c. 562.226	rep. 2001 No. 162
c. 562.227	am. 1999 No. 81 rep. 2001 No. 162
c. 562.411	rep. 2001 No. 162
c. 562.511	rep. 2001 No. 162
c. 562.611	rs. 1998 No. 305 am. 2000 No. 259 rep. 2001 No. 162
c. 562.612	rep. 2001 No. 162
c. 562.711	rep. 2001 No. 162
Part 563	rep. 2001 No. 162
c. 563.211	am. 1999 No. 81 rep. 2001 No. 162
c. 563.211A	ad. 1998 No. 305 am. 1999 No. 220 rep. 2001 No. 162
c. 563.212	rep. 2001 No. 162
c. 563.220	ad. 1998 No. 305 am. 1999 No. 259 rep. 2001 No. 162
c. 563.221	am. 1999 No. 81 rep. 2001 No. 162
c. 563.222	am. 1995 No. 268 rs. 1999 No. 8 rep. 2001 No. 162
cc. 563.223, 563.224.....	am. 1999 No. 81 rep. 2001 No. 162
c. 563.225	rep. 2001 No. 162
c. 563.226	am. 1996 No. 75; 1999 No. 81 rep. 2001 No. 162
c. 563.227	rep. 2001 No. 162
c. 563.228	am. 1995 No. 268; 1999 Nos. 8 and 81 rep. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 563.229	ad. 1999 No. 259 am. 2000 No. 62 rep. 2001 No. 162
cc. 563.411, 563.412.....	rep. 2001 No. 162
Note to c. 563.412.....	rep. 1996 No. 75
c. 563.511	rs. 1998 No. 305 rep. 2001 No. 162
c. 563.611	am. 1998 No. 305 rep. 2001 No. 162
c. 563.612	am. 1998 No. 305; 1999 No. 81 rep. 2001 No. 162
c. 563.613	rep. 2001 No. 162
c. 563.71 Renumbered c. 563.711 ..	1999 No. 81
c. 563.711	rep. 2001 No. 162
Part 570	
Part 570	ad. 2001 No. 162
Div. 570.1	rs. 2003 No. 296
Note to Div. 570.1	rep. 2003 No. 296
c. 570.111	ad. 2003 No. 296 am. 2004 No. 93 and 390
c. 570.211	ad. 2001 No. 162 am. 2001 No. 344; 2004 Nos. 93 and 390; 2005 No. 133; 2007 Nos. 190 and 191; 2008 Nos. 189 and 205; 2009 No. 144
c. 570.212	ad. 2001 No. 162 rep. 2005 No. 133
c. 570.221	ad. 2001 No. 162 am. 2002 Nos. 10 and 213; 2007 No. 314
c. 570.222	ad. 2001 No. 162
c. 570.223	ad. 2001 No. 162 rs. 2002 No. 10
c. 570.224	ad. 2001 No. 162 am. 2007 No. 314
c. 570.225	ad. 2001 No. 162
c. 570.226	ad. 2001 No. 162 rep. 2005 No. 133
c. 570.227	ad. 2001 No. 162 am. 2002 No. 213; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205
c. 570.228	ad. 2001 No. 162 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 570.229	ad. 2001 No. 162 rs. 2003 No. 296
c. 570.230	ad. 2001 No. 162
c. 570.230A	ad. 2002 No. 10
c. 570.231	ad. 2001 No. 162
c. 570.232	ad. 2002 No. 10 am. 2003 No. 296; 2005 Nos. 133 and 221
c. 570.233	ad. 2002 No. 10
c. 570.234	ad. 2002 No. 213
c. 570.235	ad. 2005 No. 133
c. 570.311	ad. 2001 No. 162
c. 570.312	ad. 2001 No. 162 am. 2001 No. 344; 2002 No. 213; 2004 No. 93; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205; 2009 No. 144
c. 570.313	ad. 2001 No. 162 rep. 2005 No. 133
c. 570.314	ad. 2001 No. 162 am. 2004 No. 93
c. 570.315	ad. 2001 No. 162 am. 2003 No. 296
c. 570.321	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 314
c. 570.322	ad. 2001 No. 162
c. 570.323	ad. 2001 No. 162 rs. 2007 No. 314
c. 570.324	ad. 2001 No. 162
c. 570.325	ad. 2001 No. 162
c. 570.326	ad. 2001 No. 162
c. 570.327	ad. 2001 No. 162
c. 570.328	ad. 2001 No. 162
c. 570.329	ad. 2001 No. 162
c. 570.330	ad. 2001 No. 162
c. 570.331	ad. 2001 No. 162
c. 570.332	ad. 2003 No. 296
c. 570.333	ad. 2005 No. 133
c. 570.334	ad. 2005 No. 134
c. 570.411	ad. 2001 No. 162
c. 570.412	ad. 2001 No. 162
c. 570. 511	ad. 2001 No. 162 am. 2001 No. 344

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 570.611	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 190 rs. 2008 No. 56
c. 570.612	ad. 2001 No. 162
c. 570.613	ad. 2001 No. 162 rs. 2002 No. 213 am. 2004 No. 93
c. 570.614	ad. 2001 No. 162
c. 570.615	ad. 2001 No. 162
c. 570.616	ad. 2001 No. 162 am. 2003 No. 296
c. 570.617	ad. 2001 No. 162 rs. 2004 No. 93; 2008 No. 56
c. 570.711	ad. 2001 No. 162 rs. 2005 No. 134
c. 570.712	ad. 2001 No. 162 rs. 2005 No. 134
Part 571	
Part 571	ad. 2001 No. 162
Div. 571.1	rs. 2003 No. 296
c. 571.111	ad. 2001 No. 162 rs. 2003 No. 296 am. 2003 No. 363; 2004 No. 93
Note 3 to c. 571.111	ad. 2002 No. 10 rep. 2003 No. 296
c. 571.211	ad. 2001 No. 162 am. 2001 No. 344; 2003 No. 296; 2004 No. 390; 2005 No. 133; 2007 Nos. 190 and 191; 2007 No. 314; 2008 Nos. 189 and 205; 2009 No. 144
c. 571.212	ad. 2001 No. 162 rep. 2005 No. 133
c. 571.221	ad. 2001 No. 162 am. 2002 Nos. 10 and 213; 2003 No. 296 rs. 2007 No. 314
c. 571.222	ad. 2001 No. 162 am. 2003 No. 296
c. 571.223	ad. 2001 No. 162 rs. 2002 No. 10 am. 2004 No. 269
c. 571.224	ad. 2001 No. 162 am. 2007 No. 314
c. 571.225	ad. 2001 No. 162
c. 571.226	ad. 2001 No. 162 rep. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 571.227	ad. 2001 No. 162 am. 2001 No. 213; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205
c. 571.228	ad. 2001 No. 162 am. 2009 No. 144
c. 571.229	ad. 2001 No. 162
c. 571.229A	ad. 2002 No. 10
c. 571.230	ad. 2001 No. 162 rs. 2004 No. 269
c. 571.231	ad. 2001 No. 162 am. 2003 No. 296
c. 571.232	ad. 2002 No. 10 am. 2003 No. 296; 2005 Nos. 133 and 221
c. 571.233	ad. 2002 No. 10
c. 571.234	ad. 2002 No. 213
c. 571.235	ad. 2003 No. 296
c. 571.236	ad. 2003 No. 296
c. 571.237	ad. 2005 No. 133
c. 571.311	ad. 2001 No. 162
c. 571.312	ad. 2001 No. 162 am. 2001 No. 344; 2002 No. 213; 2004 No. 269; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205; 2009 No. 144
c. 571.313	ad. 2001 No. 162 rep. 2005 No. 133
c. 571.314	ad. 2001 No. 162
c. 571.321	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 314
c. 571.322	ad. 2001 No. 162
c. 571.323	ad. 2001 No. 162 rs. 2007 No. 314
c. 571.324	ad. 2001 No. 162
c. 571.325	ad. 2001 No. 162
c. 571.326	ad. 2001 No. 162
c. 571.327	ad. 2001 No. 162
c. 571.328	ad. 2001 No. 162
c. 571.329	ad. 2001 No. 162
c. 571.330	ad. 2001 No. 162
c. 571.331	ad. 2001 No. 162
c. 571.332	ad. 2003 No. 296
c. 571.333	ad. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 571.334	ad. 2005 No. 134
c. 571.411	ad. 2001 No. 162
c. 571.412	ad. 2001 No. 162
c. 571.511	ad. 2001 No. 162 am. 2001 No. 344
c. 571.611	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 190 rs. 2008 No. 56
c. 571.612	ad. 2001 No. 162
c. 571.613	ad. 2001 No. 162 am. 2003 No. 296
c. 571.614	ad. 2001 No. 162 rs. 2008 No. 56
c. 571.711	ad. 2001 No. 162 rs. 2004 No. 269; 2005 No. 134
c. 571.712	ad. 2001 No. 162 rs. 2005 No. 134
Part 572	
Part 572	ad. 2001 No. 162
Div. 572.1	rs. 2003 No. 296
c. 572.111	ad. 2001 No. 162 rs. 2003 No. 296 am. 2003 No. 363; 2004 No. 93
Note to c. 572.111	rep. 2002 No. 10
Notes 1, 2 to c. 572.111	ad. 2002 No. 10 rep. 2003 No. 296
c. 572.211	ad. 2001 No. 162 am. 2001 No. 344; 2004 No. 390; 2005 No. 133; 2007 Nos. 190, 191, 257 and 314; 2008 Nos. 56, 189 and 205; 2009 No. 144
c. 572.212	ad. 2001 No. 162 rep. 2005 No. 133
c. 572.221	ad. 2001 No. 162 am. 2002 Nos. 10 and 213; 2003 No. 296 rs. 2007 No. 314
c. 572.222	ad. 2001 No. 162
c. 572.223	ad. 2001 No. 162 rs. 2002 No. 10 am. 2004 No. 269
c. 572.224	ad. 2001 No. 162 am. 2007 No. 314
c. 572.225	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 572.226	ad. 2001 No. 162 rep. 2005 No. 133
c. 572.227	ad. 2001 No. 162 am. 2002 No. 213; 2005 Nos. 133 and 240; 2007 Nos. 191 and 257; 2008 Nos. 56, 189 and 205
c. 572.228	ad. 2001 No. 162 am. 2009 No. 144
c. 572.229	ad. 2001 No. 162
c. 572.229A	ad. 2002 No. 10
c. 572.230	ad. 2001 No. 162 rs. 2004 No. 269
c. 572.231	ad. 2002 No. 10 am. 2003 No. 296; 2005 Nos. 133 and 221
c. 572.232	ad. 2002 No. 10
c. 572.233	ad. 2002 No. 213
c. 572.234	ad. 2003 No. 296
c. 572.235	ad. 2005 No. 133
c. 572.311	ad. 2001 No. 162
c. 572.312	ad. 2001 No. 162 am. 2001 No. 344; 2002 No. 213; 2004 No. 269; 2005 Nos. 133 and 240; 2007 Nos. 191 and 257; 2008 Nos. 56, 189 and 205; 2009 No. 144
c. 572.313	ad. 2001 No. 162 rep. 2005 No. 133
c. 572.314	ad. 2001 No. 162
c. 572.315	ad. 2001 No. 162 am. 2003 No. 296
c. 572.321	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 314
c. 572.322	ad. 2001 No. 162
c. 572.323	ad. 2001 No. 162 rs. 2007 No. 314
c. 572.324	ad. 2001 No. 162
c. 572.325	ad. 2001 No. 162
c. 572.326	ad. 2001 No. 162
c. 572.327	ad. 2001 No. 162
c. 572.328	ad. 2001 No. 162
c. 572.329	ad. 2001 No. 162
c. 572.330	ad. 2001 No. 162
c. 572.331	ad. 2001 No. 162
c. 572.332	ad. 2003 No. 296
c. 572.333	ad. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 572.334	ad. 2005 No. 134
c. 572.411	ad. 2001 No. 162
c. 572.412	ad. 2001 No. 162
c. 572.511	ad. 2001 No. 162 am. 2001 No. 344
c. 572.611	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 190 rs. 2008 No. 56
c. 572.612	ad. 2001 No. 162
c. 572.613	ad. 2001 No. 162 rs. 2002 No. 213 am. 2004 No. 93
c. 572.614	ad. 2001 No. 162
c. 572.615	ad. 2001 No. 162
c. 572.616	ad. 2001 No. 162 am. 2003 No. 296
c. 572.617	ad. 2001 No. 162 rs. 2008 No. 56
c. 572.711	ad. 2001 No. 162 rs. 2004 No. 269; 2005 No. 134
c. 572.712	ad. 2001 No. 162 rs. 2005 No. 134
Part 573	
Part 573	ad. 2001 No. 162
Div. 573.1	rs. 2003 No. 296
c. 573.111	ad. 2001 No. 162 rs. 2003 No. 296 am. 2003 No. 363; 2004 No. 93
Note to c. 573.111	rep. 2002 No. 10
Notes 1, 2 to c. 573.111	ad. 2002 No. 10 rep. 2003 No. 296
c. 573.211	ad. 2001 No. 162 am. 2001 No. 344; 2003 No. 296; 2004 No. 390; 2005 Nos. 133 and 240; 2007 Nos. 190, 191, 257 and 314; 2008 Nos. 56, 189 and 205; 2009 No. 144
c. 573.212	ad. 2001 No. 162 rep. 2005 No. 133
c. 573.221	ad. 2001 No. 162 am. 2002 Nos. 10 and 213; 2003 No. 296 rs. 2007 No. 314
c. 573.222	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 573.223	ad. 2001 No. 162 rs. 2002 No. 10 am. 2004 No. 269
c. 573.224	ad. 2001 No. 162 am. 2007 No. 314
c. 573.225	ad. 2001 No. 162
c. 573.226	ad. 2001 No. 162 rep. 2005 No. 133
c. 573.227	ad. 2001 No. 162 am. 2002 No. 213; 2005 Nos. 133 and 240; 2007 Nos. 191 and 257; 2008 Nos. 65, 189 and 205
c. 573.228	ad. 2001 No. 162 am. 2009 No. 144
c. 573.229	ad. 2001 No. 162
c. 573.229A	ad. 2002 No. 10
c. 573.230	ad. 2001 No. 162 rs. 2004 No. 269
c. 573.231	ad. 2002 No. 10 am. 2003 No. 296; 2005 Nos. 133 and 221
c. 573.232	ad. 2002 No. 10
c. 573.233	ad. 2002 No. 213
c. 573.234	ad. 2003 No. 296
c. 573.235	ad. 2005 No. 133
c. 573.311	ad. 2001 No. 162
c. 573.312	ad. 2001 No. 162 am. 2001 No. 344; 2002 No. 213; 2003 No. 296; 2004 No. 269; 2005 Nos. 133 and 240; 2007 Nos. 191 and 257; 2008 Nos. 56, 189 and 205; 2009 No. 144
c. 573.313	ad. 2001 No. 162 rep. 2005 No. 133
c. 573.314	ad. 2001 No. 162 am. 2004 No. 93
c. 573.321	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 314
c. 573.322	ad. 2001 No. 162
c. 573.323	ad. 2001 No. 162 rs. 2007 No. 314
c. 573.324	ad. 2001 No. 162
c. 573.325	ad. 2001 No. 162
c. 573.326	ad. 2001 No. 162
c. 573.327	ad. 2001 No. 162
c. 573.328	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 573.329	ad. 2001 No. 162
c. 573.330	ad. 2001 No. 162
c. 573.331	ad. 2001 No. 162
c. 573.332	ad. 2003 No. 296
c. 573.333	ad. 2005 No. 133
c. 573.334	ad. 2005 No. 134
c. 573.411	ad. 2001 No. 162
c. 573.412	ad. 2001 No. 162
c. 573.511	ad. 2001 No. 162 am. 2001 No. 344
c. 573.611	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 190 rs. 2008 No. 56
c. 573.612	ad. 2001 No. 162
c. 573.613	ad. 2001 No. 162 rs. 2002 No. 213 am. 2004 No. 93
c. 573.614	ad. 2001 No. 162
c. 573.615	ad. 2001 No. 162
c. 573.616	ad. 2001 No. 162 am. 2003 No. 296
c. 573.617	ad. 2001 No. 162 am. 2003 No. 296; 2004 No. 93 rs. 2008 No. 56
c. 573.711	ad. 2001 No. 162 rs. 2004 No. 269; 2005 No. 134
c. 573.712	ad. 2001 No. 162 rs. 2005 No. 134
Part 574	
Heading to Part 574	rs. 2003 No. 296
Part 574	ad. 2001 No. 162
Div. 574.1	rs. 2003 No. 296
c. 574.111	ad. 2001 No. 162 rs. 2003 No. 296 am. 2003 No. 363; 2004 No. 93
Note to c. 574.111	rep. 2002 No. 10
Notes 1, 2 to c. 574.111	ad. 2002 No. 10 rep. 2003 No. 296
c. 574.211	ad. 2001 No. 162 am. 2001 No. 344; 2004 No. 390; 2005 Nos. 133 and 240; 2007 Nos. 190, 191, 257 and 314; 2008 Nos. 56, 189 and 205; 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 574.212	ad. 2001 No. 162 rep. 2005 No. 133
c. 574.221	ad. 2001 No. 162 am. 2002 Nos. 10 and 213; 2003 No. 296 rs. 2007 No. 314 am. 2008 No. 56
c. 574.222	ad. 2001 No. 162 am. 2004 No. 93
c. 574.223	ad. 2001 No. 162 rs. 2002 No. 10 am. 2004 No. 269
c. 574.224	ad. 2001 No. 162 am. 2007 No. 314
c. 574.225	ad. 2001 No. 162
c. 574.226	ad. 2001 No. 162 rep. 2005 No. 133
c. 574.227	ad. 2001 No. 162 am. 2002 No. 213; 2005 Nos. 133 and 240; 2007 Nos. 191 and 257; 2008 Nos. 56, 189 and 205
c. 574.228	ad. 2001 No. 162 am. 2009 No. 144
c. 574.229	ad. 2001 No. 162
c. 574.229A	ad. 2002 No. 10
c. 574.230	ad. 2001 No. 162 rs. 2004 No. 269
c. 574.231	ad. 2002 No. 10 am. 2003 No. 296; 2005 Nos. 133 and 221
c. 574.232	ad. 2002 No. 10
c. 574.233	ad. 2002 No. 213
c. 574.234	ad. 2003 No. 296
c. 574.235	ad. 2005 No. 133
c. 574.311	ad. 2001 No. 162
c. 574.312	ad. 2001 No. 162 am. 2001 No. 344; 2002 No. 213; 2003 No. 296; 2004 No. 269; 2005 Nos. 133 and 240; 2007 Nos. 191 and 257; 2008 Nos. 56, 189 and 205; 2009 No. 144
c. 574.313	ad. 2001 No. 162 rep. 2005 No. 133
c. 574.314	ad. 2001 No. 162
c. 574.321	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 314
c. 574.322	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 574.323	ad. 2001 No. 162 rs. 2007 No. 314
c. 574.324	ad. 2001 No. 162
c. 574.325	ad. 2001 No. 162
c. 574.326	ad. 2001 No. 162
c. 574.327	ad. 2001 No. 162
c. 574.328	ad. 2001 No. 162
c. 574.329	ad. 2001 No. 162
c. 574.330	ad. 2001 No. 162
c. 574.331	ad. 2001 No. 162
c. 574.332	ad. 2003 No. 296
c. 574.333	ad. 2005 No. 133
c. 574.334	ad. 2005 No. 134
c. 574.411	ad. 2001 No. 162
c. 574.412	ad. 2001 No. 162
c. 574.511	ad. 2001 No. 162 am. 2001 No. 344
c. 574.611	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 190 rs. 2008 No. 56
c. 574.612	ad. 2001 No. 162
c. 574.613	ad. 2001 No. 162 rs. 2002 No. 213 am. 2004 No. 93
c. 574.613A	ad. 2001 No. 162
c. 574.614	ad. 2001 No. 162
c. 574.615	ad. 2001 No. 162
c. 574.616	ad. 2001 No. 162 am. 2003 No. 296; 2008 No. 56
c. 574.617	ad. 2001 No. 162 rs. 2002 No. 348; 2003 No. 296; 2008 No. 56
c. 574.618	ad. 2003 No. 296 rep. 2008 No. 56
c. 574.711	ad. 2001 No. 162 rs. 2004 No. 269; 2005 No. 134
c. 574.712	ad. 2001 No. 162 rs. 2005 No. 134
Part 575	
Part 575	ad. 2001 No. 162
Heading to Part 575	rs. 2003 No. 296
Div. 575.1	rs. 2003 No. 296

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 575.111	ad. 2001 No. 162 rs. 2003 No. 296 am. 2003 No. 363; 2004 No. 93
Note 3 to c. 575.111	ad. 2002 No. 10 rep. 2003 No. 296
c. 575.211	ad. 2001 No. 162 am. 2001 No. 344; 2004 No. 390; 2005 No. 133; 2007 Nos. 190, 191 and 314; 2008 Nos. 189 and 205; 2009 No. 144
c. 575.212	ad. 2001 No. 162 rep. 2005 No. 133
c. 575.221	ad. 2001 No. 162 am. 2002 Nos. 10 and 213; 2003 No. 296 rs. 2007 No. 314
c. 575.222	ad. 2001 No. 162
c. 575.223	ad. 2001 No. 162 rs. 2002 No. 10
c. 575.224	ad. 2001 No. 162 am. 2007 No. 314
c. 575.225	ad. 2001 No. 162
c. 575.226	ad. 2001 No. 162 rep. 2005 No. 133
c. 575.227	ad. 2001 No. 162 am. 2002 No. 213; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205
c. 575.228	ad. 2001 No. 162 am. 2009 No. 144
c. 575.229	ad. 2001 No. 162
c. 575.229A	ad. 2002 No. 10
c. 575.230	ad. 2001 No. 162
c. 575.231	ad. 2002 No. 10 am. 2003 No. 296; 2005 Nos. 133 and 221
c. 575.232	ad. 2002 No. 10
c. 575.233	ad. 2002 No. 213
c. 575.234	ad. 2003 No. 296
c. 575.235	ad. 2005 No. 133
c. 575.311	ad. 2001 No. 162
c. 575.312	ad. 2001 No. 162 am. 2001 No. 344; 2002 No. 213; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205; 2009 No. 144
c. 575.313	ad. 2001 No. 162 rep. 2005 No. 133
c. 575.314	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 575.315	ad. 2001 No. 162 am. 2003 No. 296
c. 575.321	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 314
c. 575.322	ad. 2001 No. 162
c. 575.323	ad. 2001 No. 162 rs. 2007 No. 314
c. 575.324	ad. 2001 No. 162
c. 575.325	ad. 2001 No. 162
c. 575.326	ad. 2001 No. 162
c. 575.327	ad. 2001 No. 162
c. 575.328	ad. 2001 No. 162
c. 575.329	ad. 2001 No. 162
c. 575.330	ad. 2001 No. 162
c. 575.331	ad. 2001 No. 162
c. 575.332	ad. 2003 No. 296
c. 575.333	ad. 2005 No. 133
c. 575.334	ad. 2005 No. 134
c. 575.411	ad. 2001 No. 162
c. 575.412	ad. 2001 No. 162
c. 575.511	ad. 2001 No. 162 am. 2001 No. 344
c. 575.611	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 190 rs. 2008 No. 56
c. 575.612	ad. 2001 No. 162
c. 575.613	ad. 2001 No. 162 rs. 2002 No. 213 am. 2004 No. 93
c. 575.614	ad. 2001 No. 162
c. 575.615	ad. 2001 No. 162
c. 575.616	ad. 2001 No. 162 am. 2003 No. 296
c. 575.617	ad. 2001 No. 162 rs. 2008 No. 56
c. 575.711	ad. 2001 No. 162 rs. 2005 No. 134
c. 575.712	ad. 2001 No. 162 rs. 2005 No. 134
Part 576	
Part 576	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Div. 576.1	rs. 2003 No. 296
c. 576.111	ad. 2001 No. 162 am. 2002 No. 10 rs. 2003 No. 296 am. 2003 No. 363; 2004 No. 93
c. 576.211	ad. 2001 No. 162 am. 2001 No. 344; 2004 No. 390; 2005 No. 133; 2007 Nos. 190, 191 and 314; 2008 Nos. 189 and 205; 2009 No. 144
c. 576.212	ad. 2001 No. 162 rep. 2005 No. 133
c. 576.221	ad. 2001 No. 162 am. 2002 Nos. 10 and 213; 2003 No. 296 rs. 2007 No. 314
c. 576.222	ad. 2001 No. 162 rs. 2002 No. 10
c. 576.223	ad. 2001 No. 162 am. 2007 No. 314
c. 576.224	ad. 2001 No. 162
c. 576.225	ad. 2001 No. 162 rep. 2005 No. 133
c. 576.226	ad. 2001 No. 162 am. 2009 No. 144
c. 576.227	ad. 2001 No. 162 am. 2002 No. 10
c. 576.228	ad. 2001 No. 162
c. 576.229	ad. 2001 No. 162
c. 576.230	ad. 2002 No. 10
c. 576.231	ad. 2002 No. 213
c. 576.232	ad. 2003 No. 296
c. 576.233	ad. 2005 No. 133
c. 576.311	ad. 2001 No. 162
c. 576.312	ad. 2001 No. 162 am. 2001 No. 344; 2002 Nos. 10 and 213; 2003 No. 296; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205; 2009 No. 144
c. 576.313	ad. 2001 No. 162 rep. 2005 No. 133
c. 576.314	ad. 2001 No. 162
c. 576.321	ad. 2001 No. 162 am. 2003 No. 296; 2007 No. 314
c. 576.322	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 576.323	ad. 2001 No. 162 rs. 2007 No. 314
c. 576.324	ad. 2001 No. 162
c. 576.325	ad. 2001 No. 162
c. 576.326	ad. 2001 No. 162 rep. 2003 No. 296
c. 576.327	ad. 2001 No. 162
c. 576.328	ad. 2001 No. 162
c. 576.329	ad. 2001 No. 162
c. 576.330	ad. 2001 No. 162
c. 576.331	ad. 2001 No. 162
c. 576.332	ad. 2001 No. 162
c. 576.333	ad. 2003 No. 296
c. 576.334	ad. 2005 No. 133
c. 576.335	ad. 2005 No. 134
c. 576.411	ad. 2001 No. 162
c. 576.412	ad. 2001 No. 162
c. 576.511	ad. 2001 No. 162 am. 2001 No. 344
c. 576.611	ad. 2001 No. 162 am. 2002 No. 213; 2003 No. 296 rs. 2008 No. 56
c. 576.612	ad. 2001 No. 162
c. 576.613	ad. 2001 No. 162 am. 2003 No. 296
c. 576.614	ad. 2001 No. 162 am. 2003 No. 296 rs. 2008 No. 56
c. 576.711	ad. 2001 No. 162 rs. 2005 No. 134
c. 576.712	ad. 2005 No. 134
Part 580	
Part 580	ad. 2003 No. 363
c. 580.111	ad. 2003 No. 363 am. 2004 No. 269; 2005 No. 133; 2009 No. 144
c. 580.112	ad. 2003 No. 363 am. 2005 No. 133; 2009 No. 116
c. 580.113	ad. 2003 No. 363 am. 2005 No. 133; 2009 No. 116
c. 580.114	ad. 2003 No. 363

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note to Div. 580.2	ad. 2004 No. 390
Subdiv. 580.21	rs. 2004 No. 269
Note to Subdiv. 580.21	rep. 2004 No. 269
c. 580.211	ad. 2004 No. 269 am. 2004 No. 390; 2005 Nos. 133 and 240; 2007 No. 191; 2008 Nos. 189 and 205; 2009 No. 144
c. 580.221	ad. 2003 No. 363 rep. 2004 No. 269
c. 580.222	ad. 2003 No. 363
c. 580.223	ad. 2003 No. 363 am. 2004 Nos. 269 and 390; 2005 No. 133; 2007 No. 314
Note to c. 580.223 (2) (c)	ad. 2005 No. 133
c. 580.224	ad. 2003 No. 363
c. 580.225	ad. 2003 No. 363
c. 580.226	ad. 2003 No. 363 am. 2004 Nos. 269 and 390
c. 580.227	ad. 2004 No. 269 am. 2004 No. 390; 2005 Nos. 133 and 240; 2007 No. 191; 2008 Nos. 189 and 205
c. 580.228	ad. 2004 No. 269 am. 2009 No. 144
c. 580.229	ad. 2004 No. 269
c. 580.230	ad. 2005 No. 134
Div. 580.3	rs. 2004 No. 269
Note to Div. 580.3	rep. 2004 No. 269 ad. 2004 No. 390
c. 580.310	ad. 2004 No. 390
c. 580.311	ad. 2004 No. 269 am. 2004 No. 390; 2005 Nos. 133 and 240; 2007 No. 191; 2008 Nos. 189 and 205; 2009 No. 144
Subdiv. 580.32	ad. 2004 No. 269
c. 580.321	ad. 2004 No. 269
c. 580.322	ad. 2004 No. 269
c. 580.323	ad. 2004 No. 269 am. 2004 No. 390
c. 580.324	ad. 2004 No. 269
c. 580.325	ad. 2004 No. 269
c. 580.326	ad. 2004 No. 269
c. 580.327	ad. 2004 No. 269
c. 580.328	ad. 2005 No. 134
c. 580.411	ad. 2003 No. 363
c. 580.412	ad. 2003 No. 363

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 580.511	ad. 2003 No. 363
Div. 580.6	rs. 2005 No. 133
c. 580.611	ad. 2003 No. 363 rs. 2004 No. 269; 2005 No. 133
c. 580.612	ad. 2004 No. 269 rs. 2005 No. 133
c. 580.711	ad. 2003 No. 363 rs. 2005 No. 134
c. 580.72	ad. 2005 No. 134
Part 651	
Part 651	ad. 2008 No. 205
c. 651.221	ad. 2008 No. 205
c. 651.222	ad. 2008 No. 205
c. 651.223	ad. 2008 No. 205
c. 651.224	ad. 2008 No. 205
c. 651.411	ad. 2008 No. 205
c. 651.511	ad. 2008 No. 205
c. 651.611	ad. 2008 No. 205
c. 651.612	ad. 2008 No. 205
c. 651.613	ad. 2008 No. 205
c. 651.711	ad. 2008 No. 205
Part 661	rep. 1995 No. 38
c. 661.211	rep. 1995 No. 38
cc. 661.221–661.224	rep. 1995 No. 38
c. 661.411	rep. 1995 No. 38
c. 661.511	rep. 1995 No. 38
c. 661.611	rep. 1995 No. 38
c. 661.711	rep. 1995 No. 38
Part 670	rep. 1995 No. 38
cc. 670.211–670.213	rep. 1995 No. 38
c. 670.221	am. 1994 No. 376 rep. 1995 No. 38
c. 670.222	rep. 1995 No. 38
cc. 670.411, 670.412	rep. 1995 No. 38
cc. 670.511, 670.512	rep. 1995 No. 38
c. 670.611	rs. 1994 No. 376 rep. 1995 No. 38
c. 670.611A	ad. 1994 No. 376 rep. 1995 No. 38
c. 670.612	rep. 1995 No. 38

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 670.711	rep. 1995 No. 38
Part 672	rep. 1995 No. 268
Note to Div. 672.1	rs. 1995 No. 117 rep. 1995 No. 268
cc. 672.111, 672.112.....	ad. 1995 No. 117 rep. 1995 No. 268
cc. 672.211–672.214.....	rep. 1995 No. 268
c. 672.221	am. 1994 Nos. 280 and 376 rep. 1995 No. 268
c. 672.222	rep. 1995 No. 268
cc. 672.411, 672.412.....	rep. 1995 No. 268
c. 672.511	am. 1995 No. 117 rep. 1995 No. 268
c. 672.512	rep. 1995 No. 268
c. 672.611	rs. 1994 No. 376 rep. 1995 No. 268
c. 672.611A.....	ad. 1994 No. 376 rep. 1995 No. 268
c. 672.612	rep. 1995 No. 268
c. 672.711	rep. 1995 No. 268
Part 673	rep. 1995 No. 38
cc. 673.211, 673.213.....	rep. 1995 No. 38
c. 673.221	am. 1994 Nos. 280 and 376 rep. 1995 No. 38
c. 673.222	rep. 1995 No. 38
cc. 673.411, 673.412.....	rep. 1995 No. 38
cc. 673.511, 673.512.....	rep. 1995 No. 38
c. 673.611	rs. 1994 Nos. 280 and 376 rep. 1995 No. 38
c. 673.611A.....	ad. 1994 No. 376 rep. 1995 No. 38
c. 673.612	rs. 1994 No. 280 rep. 1995 No. 38
c. 673.711	rep. 1995 No. 38
Part 674	rep. 1995 No. 38
cc. 674.211–674.213.....	rep. 1995 No. 38
c. 674.221	am. 1994 No. 376 rep. 1995 No. 38
c. 674.222	rep. 1995 No. 38
cc. 674.411, 674.412.....	rep. 1995 No. 38
cc. 674.511, 674.512.....	rep. 1995 No. 38

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 674.611	rs. 1994 No. 376 rep. 1995 No. 38
c. 674.611A	ad. 1994 No. 376 rep. 1995 No. 38
c. 674.612	rep. 1995 No. 38
c. 674.711	rep. 1995 No. 38
Part 675	
c. 675.212	am. 1995 No. 38
c. 675.216	am. 1999 No. 81; 2002 No. 348
c. 675.221	am. 1994 No. 376; 1995 Nos. 38 and 268; 1996 Nos. 75 and 211; 1997 No. 354; 1998 No. 304; 1999 No. 8
c. 675.222	ad. 1999 No. 8
c. 675.223	ad. 1999 No. 259 am. 2000 No. 62
c. 675.224	ad. 2005 No. 134
c. 675.611	rs. 1994 No. 376 am. 1999 No. 81
c. 675.611A	ad. 1994 No. 376 am. 1999 No. 81
c. 675.711	rs. 2005 No. 134
c. 675.712	ad. 2005 No. 134
Part 676	
Part 676	ad. 1995 No. 38 rs. 2005 No. 133
Note to Div. 676.1	rs. 2002 No. 348 rs. 2005 No. 133
c. 676.211A	ad. 2002 No. 348 rep. 2005 No. 133
c. 676.211	ad. 1995 No. 38 am. 2002 No. 348 rs. 2005 No. 133
c. 676.212	ad. 1995 No. 38 am. 2002 No. 348 rs. 2005 No. 133 am. 2009 No. 144
c. 676.212A	ad. 1999 No. 76 am. 2002 No. 348 rep. 2005 No. 133
c. 676.213	ad. 1995 No. 38 am. 1999 No. 81; 2002 No. 348 rs. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 676.214	ad. 2002 No. 348 am. 2004 No. 223 rs. 2005 No. 133 am. 2009 No. 116
c. 676.215	ad. 2002 No. 348 rs. 2005 No. 133
c. 676.221	ad. 1995 No. 38 am. 1995 Nos. 268 and 302; 1996 Nos. 75 and 211; 1998 No. 304; 1999 Nos. 8, 76 and 81; 2000 No. 62; 2002 No. 348; 2007 No. 166 rs. 2005 No. 133
c. 676.222	ad. 1995 No. 38 rs. 2005 No. 133
c. 676.223	ad. 1999 No. 8 rs. 2005 No. 133
c. 676.224	ad. 2005 No. 133
c. 676.225	ad. 2005 No. 134
c. 676.411	ad. 1995 No. 38 rs. 2005 No. 133
c. 676.411A.....	ad. 1999 No. 76 rep. 2005 No. 133
c. 676.412	ad. 1995 No. 38 rs. 2005 No. 133
c. 676.413	ad. 2005 No. 133
c. 676.511	ad. 1995 No. 38 rs. 2002 No. 348; 2005 No. 133
c. 676.511A.....	ad. 2002 No. 348 rep. 2005 No. 133
c. 676.512	ad. 1995 No. 38 rs. 2005 No. 133
c. 676.513	ad. 2005 No. 133
Div. 676.6.....	ad. 1995 No. 38 rs. 1999 No. 76; 2005 No. 133
c. 676.611	ad. 1995 No. 38 rs. 1999 No. 76 am. 2000 No. 62 rs. 2005 No. 133
c. 676.212	ad. 2005 No. 133
Renumbered c. 676.612..	2007 No. 166
c. 676. 612	ad. 1995 No. 38 rs. 1999 No. 76 rep. 2005 No. 133
c. 676.612A.....	ad. 2002 No. 348 rep. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 676.613	ad. 1995 No. 38 rs. 1999 No. 76 am. 2000 No. 62 rs. 2005 No. 133
c. 676.711	ad. 1995 No. 38 rs. 2002 No. 348; 2005 Nos. 133 and 134
c. 676.712	ad. 2002 No. 348 rs. 2003 No. 94; 2005 Nos. 133 and 134
c. 676.713	ad. 2003 No. 94 rep. 2005 No. 133
Part 679	
Heading to Part 679	rs. 2004 No. 390
Part 679	ad. 2000 No. 62
c. 679.211	ad. 2000 No. 62 am. 2009 No. 144
c. 679.212	ad. 2000 No. 62
c. 679.213	ad. 2000 No. 62 am. 2004 No. 390
c. 679.214	ad. 2000 No. 62
c. 679.221	ad. 2000 No. 62
c. 679.222	ad. 2000 No. 62 am. 2005 No. 54
c. 679.223	ad. 2000 No. 62
c. 679.224	ad. 2000 No. 62
c. 679.225	ad. 2000 No. 62
c. 679.226	ad. 2000 No. 62
c. 679.227	ad. 2000 No. 62
c. 679.228	ad. 2000 No. 62
c. 679.229	ad. 2000 No. 62
c. 679.230	ad. 2000 No. 62
c. 679.231	ad. 2005 No. 134
c. 679.411	ad. 2000 No. 62
c. 679.511	ad. 2000 No. 62 am. 2004 No. 390
c. 679.611	ad. 2000 No. 62 am. 2005 No. 54
c. 679.711	ad. 2000 No. 62 rs. 2005 No. 134
c. 679.712	ad. 2005 No. 134
Part 680	rep. 1995 No. 38
cc. 680.211–680.213.....	rep. 1995 No. 38

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 680.221	am. 1994 No. 376 rep. 1995 No. 38
cc. 680.411, 680.412.....	rep. 1995 No. 38
c. 680.511	rep. 1995 No. 38
c. 680.611	rs. 1994 No. 376 rep. 1995 No. 38
c. 680.611A.....	ad. 1994 No. 376 rep. 1995 No. 38
c. 680.612	rep. 1995 No. 38
c. 680.711	rep. 1995 No. 38
Part 682	rep. 1995 No. 268
Note to Div. 682.2	ad. 1995 No. 38 rep. 1995 No. 268
cc. 682.211–682.214.....	rep. 1995 No. 268
c. 682.221	am. 1994 No. 376 rep. 1995 No. 268
cc. 682.411, 682.412.....	rep. 1995 No. 268
c. 682.511	rep. 1995 No. 268
c. 682.611	rs. 1994 No. 376 rep. 1995 No. 268
c. 682.611A.....	ad. 1994 No. 376 rep. 1995 No. 268
c. 682.612	rep. 1995 No. 268
c. 682.711	rep. 1995 No. 268
Part 683	rep. 1995 No. 38
cc. 683.211–683.213.....	rep. 1995 No. 38
c. 683.221	am. 1994 No. 376 rep. 1995 No. 38
cc. 683.411, 683.412.....	rep. 1995 No. 38
c. 683.511	rep. 1995 No. 38
c. 683.611	rs. 1994 No. 376 rep. 1995 No. 38
c. 683.611A.....	ad. 1994 No. 376 rep. 1995 No. 38
c. 683.612	rep. 1995 No. 38
c. 683.711	rep. 1995 No. 38
Part 684	rep. 1995 No. 38
cc. 684.211–684.213.....	rep. 1995 No. 38
c. 684.221	am. 1994 No. 376 rep. 1995 No. 38
cc. 684.411, 684.412.....	rep. 1995 No. 38

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 684.511	rep. 1995 No. 38
cc. 684.61, 684.62.....	rep. 1994 No. 376
c. 684.611	ad. 1994 No. 376 rep. 1995 No. 38
c. 684.611A.....	ad. 1994 No. 376 rep. 1995 No. 38
c. 684.612	ad. 1994 No. 376 rep. 1995 No. 38
c. 684.711	rep. 1995 No. 38
Part 685	
c. 685.212	am. 1995 No. 38
c. 685.216	am. 1999 No. 81; 2002 No. 348
c. 685.221	am. 1994 No. 376; 1995 Nos. 38 and 268; 1996 Nos. 75 and 211; 1997 No. 354; 1998 No. 304; 1999 No. 8; 2002 No. 348
c. 685.222	ad. 1999 No. 8
c. 685.223	ad. 1999 No. 259 am. 2000 No. 62
c. 685.224	ad. 2005 No. 134
c. 685.611	rs. 1994 No. 376 am. 1999 No. 81
c. 685.611A.....	ad. 1994 No. 376 am. 1999 No. 81
c. 685.711	rs. 2005 No. 134
c. 685.712	ad. 2005 No. 134
Part 686	ad. 1995 No. 38 rep. 2005 No. 133
Note to Div. 686.1	rs. 1996 No. 12; 2001 No. 162 rep. 2005 No. 133
c. 686.211	ad. 1995 No. 38 rs. 2001 No. 162 am. 2002 No. 348 rep. 2005 No. 133
c. 686.212	ad. 1995 No. 38 rs. 2001 No. 162 rep. 2005 No. 133
c. 686.213	ad. 1995 No. 38 am. 1999 No. 81 rs. 2001 No. 162 rep. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 686.221	ad. 1995 No. 38 am. 1995 Nos. 268 and 302; 1996 Nos. 12, 75 and 211; 1998 No. 304; 1999 Nos. 8 and 81; 2000 No. 62; 2001 No. 162 rep. 2005 No. 133
c. 686.222	ad. 1999 No. 8 rep. 2005 No. 133
c. 686.411	ad. 1995 No. 38 rep. 2005 No. 133
c. 686.412	ad. 1995 No. 38 rep. 2005 No. 133
c. 686.511	ad. 1995 No. 38 am. 1996 No. 12; 2001 Nos. 162 and 344 rep. 2005 No. 133
c. 686.611	ad. 1995 No. 38 rs. 1996 No. 12 am. 1999 No. 81 rs. 2001 No. 162 rep. 2005 No. 133
c. 686.612	ad. 1995 No. 38 am. 1999 No. 81 rs. 2001 No. 162 rep. 2005 No. 133
c. 686.613	ad. 1995 No. 38 rs. 2001 No. 162 rep. 2005 No. 133
c. 686.614	ad. 2001 No. 162 rep. 2005 No. 133
c. 686.711	ad. 1995 No. 38 rs. 1996 No. 12; 2001 No. 162 rep. 2005 No. 133
c. 686.712	ad. 1996 No. 12 rep. 2005 No. 133
Part 695	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.211	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.221	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.222	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.223	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.224	ad. 2004 No. 269 rep. 2008 No. 168

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 695.411	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.511	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.611	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.612	ad. 2004 No. 269 rep. 2008 No. 168
c. 695.711	ad. 2004 No. 269 rs. 2005 No. 134 rep. 2008 No. 168
c. 695.712	ad. 2004 No. 269 rs. 2005 No. 134 rep. 2008 No. 168
Part 771	
c. 771.212	am. 2005 No. 133
c. 771.221	am. 1999 No. 81
c. 771.222	am. 1996 No. 75; 2007 No. 315
c. 771.223	am. 1996 No. 75
c. 771.224	ad. 2005 No. 134
c. 771.711	am. 1999 No. 81 rs. 2005 No. 134
c. 771.712	ad. 2005 No. 134
Part 773	
c. 773.213	am. 1995 Nos. 38 and 268; 1996 Nos. 76 and 211; 1997 No. 137; 1999 Nos. 76, 81, 259, 260 and 321; 2000 No. 62; 2001 Nos. 27 and 162; 2002 Nos. 213 and 348; Act No. 5, 2003; 2005 Nos. 133 and 240; 2006 No. 159; 2007 No. 257; 2008 No. 205; 2009 No. 144
c. 773.214	am. 1999 No. 81; 2002 No. 213
c. 773.215	am. 2002 No. 213
c. 773.216	am. 1995 No. 117; 1999 No. 81; 2002 No. 213
c. 773.217	am. 1999 No. 81; 2002 No. 213
c. 773.222	rs. 1996 No. 75 am. 1997 No. 354
c. 773.223	am. 1996 No. 75
c. 773.224	am. 1999 No. 81
c. 773.225	ad. 1999 No. 8
c. 773.226	ad. 1999 No. 259 am. 2000 No. 62
c. 773.511	rs. 2002 No. 86 am. 2007 No. 191

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 773.512	ad. 2002 No. 86
c. 773.711	am. 1999 No. 81 rs. 2005 No. 134
c. 773.712	ad. 2005 No. 134
Part 785	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.111	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.112	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.211	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.212	ad. 1999 No. 243 rep. 2000 No. 259
c. 785.221	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.222	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.223	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.224	ad. 1999 No. 243 rs. 2000 No. 62 rep. 2008 No. 168
c. 785.225	ad. 1999 No. 243 am. 2000 No. 62; 2003 No. 94 rep. 2008 No. 168
c. 785.225A	ad. 2000 No. 62 rep. 2008 No. 168
c. 785.225B	ad. 2000 No. 62 rep. 2008 No. 168
c. 785.226	ad. 1999 No. 243 am. 2006 No. 10 rs. 2007 No. 314 rep. 2008 No. 168
c. 785.227	ad. 1999 No. 243 rep. 2008 No. 168
Note to Div. 785.3	ad. 2004 No. 269
(second occurring)	rep. 2008 No. 168
c. 785.411	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.511	ad. 1999 No. 243 rs. 2001 No. 246; 2002 No. 213 rep. 2008 No. 168

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 785.611	ad. 1999 No. 243 rep. 2008 No. 168
c. 785.612	ad. 2001 No. 246 rep. 2008 No. 168
c. 785.711	ad. 1999 No. 243 rs. 2005 No. 134 rep. 2008 No. 168
c. 785.712	ad. 2005 No. 134 rep. 2008 No. 168
Part 786	
Part 786	ad. 2000 No. 192
c. 786.211	ad. 2000 No. 192
c. 786.221	ad. 2000 No. 192
c. 786.222	ad. 2000 No. 192
c. 786.223	ad. 2000 No. 192 am. 2003 No. 94
c. 786.224	ad. 2000 No. 192
c. 786.225	ad. 2000 No. 192 am. 2006 No. 10
c. 786.411	ad. 2000 No. 192
c. 786.511	ad. 2000 No. 192
c. 786.611	ad. 2000 No. 192
c. 786.612	ad. 2000 No. 192
c. 786.711	ad. 2000 No. 192 rs. 2005 No. 134
c. 786.712	ad. 2005 No. 134
Part 787	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.211	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.221	ad. 2003 No. 363 rs. 2007 No. 314 rep. 2009 No. 116
c. 787.222	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.223	ad. 2003 No. 363 rs. 2007 No. 314 rep. 2009 No. 116
c. 787.311	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.312	ad. 2003 No. 363 rep. 2009 No. 116

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 787.321	ad. 2003 No. 363 rs. 2007 No. 314 rep. 2009 No. 116
c. 787.322	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.323	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.324	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.411	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.511	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.611	ad. 2003 No. 363 rep. 2009 No. 116
c. 787.711	ad. 2003 No. 363 rs. 2005 No. 134 rep. 2009 No. 116
c. 787.712	ad. 2005 No. 134 rep. 2009 No. 116
Part 800	
c. 800.221	am. 1999 No. 132
c. 800.221	am. 1995 No. 268
Renumbered c. 800.221A	1995 No. 268 rs. 2007 No. 314
c. 800.222	am. 1995 No. 268; 1999 No. 81; 2007 No. 314
c. 800.223	am. 1999 No. 81; 2000 No. 62
c. 800.311	am. 1999 No. 81
c. 800.321	am. 1999 No. 81
c. 800.322	am. 1995 No. 268 rs. 2007 No. 314
c. 800.323	am. 1999 No. 81; 2000 No. 62
Note to c. 800.411	rep. 1996 No. 75
c. 800.511	am. 1996 No. 211
c. 800.711	rs. 2005 No. 134
c. 800.712	ad. 2005 No. 134
Part 801	
Heading to Part 801	rs. 2009 No. 144
c. 801.11	rep. 1996 No. 211
c. 801.111	ad. 1996 No. 211 am. 1999 No. 81; 2002 Nos. 86 and 299; 2009 No. 144
Note to c. 801.111	rs. 1996 No. 211; 2002 No. 299

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note to Div. 801.2	rs. 1995 No. 38
c. 801.221	am. 1994 No. 376; 1995 Nos. 38 and 117; 1996 No. 211; 1999 Nos. 68, 81 and 259; 2002 Nos. 86 and 299; 2007 No. 315; 2009 No. 144
Note to 801.221 (6)	am. 2007 No. 315
c. 801.222	am. 2004 No. 93
c. 801.223	am. 1995 No. 268; 1999 No. 81; 2007 No. 314
c. 801.224	am. 1995 No. 268; 1999 No. 81; 2002 No. 299; 2007 No. 314
c. 801.225	am. 2000 No. 62
c. 801.226	ad. 2005 No. 134
Note to Div. 801.3	rs. 1995 No. 38; 1996 No. 211
Subdiv. 801.31	rs. 1995 No. 38; 2002 No. 299
c. 801.311	rs. 1995 No. 38; 1996 No. 211 am. 1999 No. 259; 2000 No. 62 rs. 2002 No. 299 am. 2009 No. 144
c. 801.321	rs. 1995 No. 38 am. 1996 No. 211; 2002 Nos. 230 and 299; 2003 No. 94; 2009 No. 144
c. 801.322	am. 2004 No. 93
c. 801.323	am. 1995 No. 268; 1999 No. 81; 2007 No. 314
c. 801.324	am. 2000 No. 62
c. 801.325	ad. 2005 No. 134
c. 801.511	am. 1996 No. 211
c. 801.711	rs. 2005 No. 134
c. 801.712	ad. 2005 No. 134
Part 802	
Div. 802.1	rs. 2008 No. 56
Note to Div. 802.1	rep. 2008 No. 56
Note to Div. 802.2	rs. 2008 No. 56
c. 802.211	rs. 1995 No. 268 am. 2003 No. 239
c. 802.212	rs. 1999 No. 259 am. 2002 No. 86; 2003 No. 239
c. 802.213	ad. 1998 No. 284 am. 2002 No. 86; 2003 No. 239; 2004 No. 390; 2009 No. 144
c. 802.214	ad. 1999 No. 259 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 802.215	ad. 2002 No. 86 am. 2003 No. 239 rs. 2008 No. 56 am. 2009 No. 144
c. 802.216	ad. 2008 No. 56
c. 802.221	rs. 1999 No. 259
c. 802.222	am. 2004 No. 93
c. 802.223	am. 1995 No. 268 rs. 2007 No. 314
c. 802.224	am. 1995 No. 268; 1999 No. 81; 2007 No. 314
c. 802.225	am. 2000 No. 62
c. 802.226	ad. 2002 No. 86
c. 802.226A	ad. 2008 No. 56
c. 802.227	ad. 2005 No. 134
Note to Div. 802.3	rs. 1995 No. 38; 2008 No. 56
c. 802.311	rs. 1995 No. 38 am. 1999 No. 81; 2000 No. 62; 2003 No. 239 rs. 2008 No. 56
c. 802.312	ad. 2002 No. 86
c. 802.321	rs. 1995 No. 38
c. 802.322	am. 1995 No. 268 rs. 2007 No. 314
c. 802.323	am. 2004 No. 93
c. 802.324	am. 2000 No. 62
c. 802.325	ad. 2002 No. 86
c. 802.326	ad. 2005 No. 134
c. 802.327	ad. 2008 No. 56
c. 802.328	ad. 2008 No. 56
c. 802.41 Renumbered c. 802.411 ..	1999 No. 81
Note to c. 802.41	rep. 1996 No. 75
c. 802.51	rep. 1996 No. 211
c. 802.511	ad. 1996 No. 211
c. 802.7 Renumbered c. 802.711 ..	1999 No. 81
c. 802.711	rs. 2005 No. 134
c. 802.712	ad. 2005 No. 134
Part 804	
c. 804.11 Renumbered c. 804.111 ..	1999 No. 81
c. 804.211	rs. 1995 No. 268

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 804.212	am. 1999 No. 81 rs. 2002 No. 86 am. 2009 No. 144
c. 804.214	ad. 2009 No. 116
c. 804.221	am. 2002 No. 86 rs. 2006 No. 10
c. 804.222	rs. 2002 No. 86; 2009 No. 116
c. 804.223	am. 2006 No. 10 rep. 2009 No. 116
c. 804.224	am. 2004 No. 93
c. 804.225	rs. 1995 No. 268; 2006 No. 10 am. 2007 No. 314
c. 804.226	rs. 1995 No. 268 am. 1999 No. 81 rs. 2006 No. 10 am. 2007 No. 314
c. 804.227	am. 2000 No. 62
c. 804.228	ad. Act No. 5, 2003
c. 804.229	ad. 2005 No. 134
Note to Div. 804.3	rs. 1995 No. 38
c. 804.311	rs. 1995 No. 38 am. 1999 No. 81; 2000 No. 62
c. 804.312	ad. 2002 No. 86 rs. 2009 No. 116
c. 804.321	rs. 1995 No. 38
c. 804.322	am. 1995 No. 268 rs. 2006 No. 10 am. 2007 No. 314
c. 804.323	am. 2004 No. 93
c. 804.324	am. 2000 No. 62
c. 804.325	ad. 2002 No. 86 rs. 2009 No. 116
c. 804.326	ad. Act No. 5, 2003
c. 804.327	ad. 2005 No. 134
Note to c. 804.411	rs. 1996 No. 75; 1997 No. 91
c. 804.511	am. 1996 No. 211
c. 804.711	rs. 2005 No. 134
c. 804.712	ad. 2005 No. 134
Part 805	rep. 1999 No. 220
Note to Div. 805.1	rs. 1995 No. 268; 1997 No. 263 rep. 1999 No. 220

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 805.211	am. 1994 No. 376; 1995 No. 268; 1996 Nos. 75 and 76; 1997 Nos. 263 and 301 rep. 1999 No. 220
c. 805.212	am. 1994 No. 376; 1995 No. 38; 1996 No. 76; 1997 Nos. 263 and 301; 1998 No. 104; 1999 No. 81 rep. 1999 No. 220
c. 805.213	am. 1994 No. 376; 1995 No. 268; 1997 No. 263; 1999 Nos. 68 and 81 rep. 1999 No. 220
c. 805.214	ad. 1997 No. 263 rep. 1999 No. 220
c. 805.221	rep. 1999 No. 220
c. 805.222	am. 1994 No. 376; 1995 No. 268 rs. 1999 No. 81 rep. 1999 No. 220
c. 805.223	am. 1999 No. 81 rep. 1999 No. 220
c. 805.224	am. 1995 No. 268 rep. 1999 No. 220
c. 805.225	rep. 1999 No. 220
c. 805.226	am. 1995 No. 268; 1999 No. 81 rep. 1999 No. 220
c. 805.227	rep. 1999 No. 220
Note to Div. 805.3	rs. 1995 No. 38 rep. 1999 No. 220
c. 805.311	rs. 1995 No. 38 am. 1999 No. 81 rep. 1999 No. 220
c. 805.312	rs. 1995 No. 38 rep. 1999 No. 220
c. 805.321	rs. 1995 Nos. 38 and 117 rep. 1999 No. 220
c. 805.322	am. 1995 No. 268 rep. 1999 No. 220
cc. 805.323, 805.324.....	rep. 1999 No. 220
c. 805.411	rep. 1999 No. 220
Note to c. 805.411	rep. 1996 No. 75 ad. 1996 No. 211 rep. 1996 No. 276
c. 805.511	am. 1996 No. 211 rep. 1999 No. 220
c. 805.711	rep. 1999 No. 220

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 806	rep. 1999 No. 259
Note to Div. 806.1	am. 1998 No. 306 rep. 1999 No. 259
c. 806.211	rs. 1995 No. 268 am. 1998 No. 306 rep. 1999 No. 259
c. 806.212	am. 1999 No. 81 rep. 1999 No. 259
c. 806.213	am. 1998 No. 306 rep. 1999 No. 259
c. 806.221	rs. 1998 Nos. 104 and 306 rep. 1999 No. 259
c. 806.222	rep. 1999 No. 259
c. 806.223	am. 1995 No. 268 rep. 1999 No. 259
c. 806.224	am. 1995 No. 268; 1999 No. 81 rep. 1999 No. 259
c. 806.225	rep. 1999 No. 259
Note to Div. 806.3	rs. 1995 No. 38 rep. 1999 No. 259
c. 806.311	rs. 1995 No. 38 am. 1999 No. 81 rep. 1999 No. 259
c. 806.321	rs. 1995 No. 38 rep. 1999 No. 259
c. 806.322	am. 1995 No. 268 rep. 1999 No. 259
cc. 806.323, 806.324.....	rep. 1999 No. 259
c. 806.411	rep. 1999 No. 259
Note to c. 806.411	rs. 1997 No. 91 rep. 1999 No. 259
c. 806.511	am. 1996 No. 211 rep. 1999 No. 259
c. 806.711	rep. 1999 No. 259
Part 808	
Subdiv. 808.22 Renumbered Subdiv. 808.21	1999 No. 81
c. 808.221	am. 1999 No. 81
Renumbered c. 808.211 ..	1999 No. 81
c. 808.222	am. 1999 No. 81
Renumbered c. 808.212 ..	1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Subdiv. 808.23 Renumbered Subdiv. 808.22	1999 No. 81
c. 808.231	am. 1999 No. 81
Renumbered c. 808.221 ..	1999 No. 81
c. 808.221	am. 1999 No. 220
c. 808.222	ad. 2005 No. 134
c. 808.41 Renumbered c. 808.411 ..	1999 No. 81
Note to c. 808.411	ad. 1996 No. 211 rs. 1997 No. 91
c. 808.511	rs. 1996 No. 211 am. 1999 No. 220
c. 808.512	ad. 1996 No. 211 am. 1999 No. 220
c. 808.711	rs. 2005 No. 134
c. 808.712	ad. 2005 No. 134
Part 814	rep. 2009 No. 144
Div. 814.1	rs. 2002 No. 299 rep. 2009 No. 144
c. 814.11 Renumbered c. 814.111 ..	1995 No. 117
c. 814.111	am. 2002 No. 86 rs. 2002 No. 299 rep. 2009 No. 144
Note to c. 814.111	rs. 1995 No. 117; 1996 No. 211 am. 1999 No. 81 rs. 2002 No. 299 rep. 2009 No. 144
Note to Div. 814.2	rs. 1995 No. 38 rep. 2009 No. 144
c. 814.221	am. 1995 No. 38 rs. 1995 No. 117 am. 1996 No. 211; 1999 Nos. 68 and 81; 2002 Nos. 86 and 299; 2007 No. 315 rep. 2009 No. 144
Note to c. 814.221 (8)	am. 2007 No. 315 rep. 2009 No. 144
c. 814.222	am. 2004 No. 93 rep. 2009 No. 144
c. 814.223	am. 1995 No. 268; 2007 No. 314 rep. 2009 No. 144
c. 814.224	am. 1995 No. 268; 1999 No. 81; 2007 No. 314 rep. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 814.225	am. 2000 No. 62 rep. 2009 No. 144
c. 814.226	ad. 2005 No. 134 rep. 2009 No. 144
Note to Div. 814.3	rs. 1995 No. 38 rep. 2009 No. 144
Subdiv. 814.31	rs. 1995 No. 38 rep. 2009 No. 144
c. 814.311	rs. 1995 No. 38 am. 1999 No. 259 rs. 2002 No. 299 rep. 2009 No. 144
Heading to Subdiv. 814.31.. (second occurring)	rep. 2002 No. 230
Heading to Subdiv. 814.32..	ad. 2002 No. 230 rep. 2009 No. 144
c. 814.321	rs. 1995 No. 38 am. 2002 Nos. 230 and 299; 2003 No. 94 rep. 2009 No. 144
c. 814.322	am. 2004 No. 93 rep. 2009 No. 144
c. 814.323	am. 1995 No. 268 rs. 2007 No. 314 rep. 2009 No. 144
c. 814.324	am. 2000 No. 62 rep. 2009 No. 144
c. 814.325	ad. 2005 No. 134 rep. 2009 No. 144
c. 814.411	rep. 2009 No. 144
c. 814.511	am. 1996 No. 211 rep. 2009 No. 144
c. 814.711	rs. 2005 No. 134 rep. 2009 No. 144
c. 814.712	ad. 2005 No. 134 rep. 2009 No. 144
Part 820	
Heading to Part 820	rs. 2009 No. 144
c. 820.111	am. 1996 Nos. 211 and 276; 2002 No. 86; 2009 No. 144
Note to c. 820.111	rs. 2007 No. 69 am. 2009 No. 144
Note to Div. 820.2	rs. 1995 No. 38
c. 820.211	am. 1994 No. 376; 1996 Nos. 75, 211 and 276; 1999 No. 81; 2002 No. 86; 2007 No. 315; 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note to c. 820.211	am. 1994 No. 376 rep. 1996 No. 211
Note to c. 820.211 (2A)	am. 1998 No. 304 rs. 2003 No. 239 rep. 2007 No. 69
Note to c. 820.211 (9)	am. 2007 No. 315
c. 820.212	ad. 2004 No. 131 rs. 2007 No. 257
c. 820.221	am. 1994 No. 376; 1995 No. 117; 1996 No. 211; 2002 No. 86; 2007 No. 315; 2009 No. 144
Note to c. 820.221 (3)	am. 2007 No. 315
c. 820.221A	ad. 1996 No. 211 am. 2002 No. 86
Note to c. 820.221A	ad. 1996 No. 211 am. 2002 No. 86 rs. 2009 No. 116
c. 820.222	am. 1996 Nos. 211 and 276; 2004 No. 93
c. 820.223	am. 1995 No. 268 rs. 2007 No. 314
c. 820.224	am. 1995 No. 268; 1999 No. 81 (as am. by 1999 No. 132) rs. 2007 No. 314
c. 820.225	am. 2000 No. 62
c. 820.226	ad. 2005 No. 134
Note to Div. 820.3	rs. 1995 No. 38; 1996 No. 211
c. 820.311	rs. 1995 No. 38; 1996 No. 211 am. 2000 No. 62; 2002 No. 86
c. 820.312	rs. 1996 No. 75 am. 2002 No. 86
c. 820.313	ad. 2004 No. 131 rs. 2008 No. 56
c. 820.321	am. 1996 No. 211; 1999 No. 81
c. 820.322	am. 1996 Nos. 211 and 276; 2004 No. 93
c. 820.323	am. 1995 No. 268 rs. 2007 No. 314
c. 820.324	am. 2000 No. 62
c. 820.325	ad. 2002 No. 86
c. 820.326	ad. 2005 No. 134
Note to c. 820.411	rep. 1996 No. 75
c. 820.511	am. 1999 No. 81 am. 2009 No. 144
c. 820.711	rs. 2005 No. 134
c. 820.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 826	rep. 2009 No. 144
Div. 826.1	rs. 2007 No. 69 rep. 2009 No. 144
Note to Div. 826.1	rs. 1995 No. 117 rep. 2007 No. 69
Notes 1–3 to Div. 826.1	ad. 2007 No. 69 rep. 2009 No. 144
Note to Div. 826.2	rs. 1995 No. 38 rep. 2009 No. 144
c. 826.211	rs. 1995 No. 117 rep. 2009 No. 144
Note to c. 826.211	am. 1994 No. 376 rep. 1995 No. 117
c. 826.212	ad. 1995 No. 117 am. 1996 No. 75; 1999 No. 81; 2002 No. 86 rep. 2009 No. 144
c. 826.213	ad. 2004 No. 131 rs. 2008 No. 56 rep. 2009 No. 144
c. 826.221	am. 1995 Nos. 117 and 134; 1999 No. 81; 2002 No. 86; 2007 No. 315 rep. 2009 No. 144
Note to c. 826.221 (4)	am. 2007 No. 315 rep. 2009 No. 144
c. 826.221A	ad. 1996 No. 211 am. 2002 No. 86 rep. 2009 No. 144
Note to c. 826.221A	ad. 1996 No. 211 am. 2002 No. 86 rs. 2009 No. 116 rep. 2009 No. 144
c. 826.222	am. 2004 No. 93 rep. 2009 No. 144
c. 826.223	am. 1995 No. 268; 2007 No. 314 rep. 2009 No. 144
c. 826.224	am. 1995 No. 268; 1999 No. 81; 2007 No. 314 rep. 2009 No. 144
c. 826.225	am. 2000 No. 62 rep. 2009 No. 144
c. 826.226	ad. 2005 No. 134 rep. 2009 No. 144
Note to Div. 826.3	rs. 1995 No. 38 rep. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 826.311	rs. 1995 No. 38 am. 2000 No. 62; 2002 No. 86 rep. 2009 No. 144
c. 826.312	am. 1995 No. 134 rs. 1996 No. 75 rep. 2009 No. 144
c. 826.313	ad. 2004 No. 131 rs. 2008 No. 56 rep. 2009 No. 144
c. 826.321	am. 1999 No. 81 rep. 2009 No. 144
c. 826.322	rep. 2004 No. 93 rep. 2009 No. 144
c. 826.323	am. 2004 No. 93 rep. 2009 No. 144
c. 826.324	am. 1995 No. 268 rs. 2007 No. 314 rep. 2009 No. 144
c. 826.325	am. 2000 No. 62 rep. 2009 No. 144
c. 826.326	ad. 2002 No. 86 rep. 2009 No. 144
c. 826.327	ad. 2005 No. 134 rep. 2009 No. 144
c. 826.411	rep. 2009 No. 144
c. 826.511	am. 1999 No. 81 rep. 2009 No. 144
c. 826.711	am. 1994 No. 376 rs. 2005 No. 134 rep. 2009 No. 144
c. 826.712	ad. 2005 No. 134 rep. 2009 No. 144
Part 831	rep. 2005 No. 133
c. 831.111	am. 1999 No. 81 rep. 2005 No. 133
c. 831.211	rs. 1994 No. 376; 1995 No. 117 am. 1996 No. 211 rep. 2005 No. 133
c. 831.221	am. 1994 No. 376; 1995 No. 117; 1996 No. 211 rep. 2005 No. 133
c. 831.222	am. 2004 No. 93 rep. 2005 No. 133
c. 831.223	am. 2000 No. 62 rep. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 831.311	rs. 1995 No. 38 am. 1999 No. 81; 2000 No. 62 rep. 2005 No. 133
c. 831.312	am. 1999 No. 81 rep. 2005 No. 133
c. 831.313	rep. 2005 No. 133
c. 831.321	am. 1999 No. 81 rep. 2005 No. 133
c. 831.322	am. 2004 No. 93 rep. 2005 No. 133
c. 831.323	am. 2000 No. 62 rep. 2005 No. 133
c. 831.411	rep. 2005 No. 133
c. 831.511	am. 1996 No. 211 rep. 2005 No. 133
c. 831.71 Renumbered c. 831.711 ..	1999 No. 81
c. 831.711	rep. 2004 No. 133
Part 832	rep. 2005 No. 240
Note to Div. 832.1	am. 2000 No. 62 rep. 2005 No. 240
Subdiv. 832.21	rs. 2005 No. 134 rep. 2005 No. 240
c. 832.211	am. 1999 No. 81 rs. 2000 No. 62 am. 2002 No. 348; 2003 No. 106 rs. 2005 No. 134 rep. 2005 No. 240
c. 832.212	am. 1994 No. 280; 1999 No. 81; 2000 No. 62; 2002 No. 348; 2003 Nos. 106 and 239 rs. 2005 No. 134 rep. 2005 No. 240
c. 832.221	am. 1995 No. 268; 1999 Nos. 81 and 132; 2000 No. 62; 2001 No. 239; 2002 No. 348; 2003 Nos. 106 and 239 rs. 2005 No. 134 rep. 2005 No. 240
c. 832.222	am. 1995 No. 268; 1999 No. 81 rs. 2000 No. 239 rep. 2005 No. 240
c. 832.223	rs. 2000 No. 62 rep. 2005 No. 240
c. 832.223A	ad. 2000 No. 62 rep. 2005 No. 240

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 832.224	am. 2004 No. 93 rep. 2005 No. 240
c. 832.225	ad. 2005 No. 134 rep. 2005 No. 240
c. 832.311	rs. 1995 No. 38 am. 1999 No. 81; 2000 No. 62 rep. 2005 No. 240
c. 832.321	am. 1995 No. 38; 1999 No. 81 rep. 2005 No. 240
c. 832.322	am. 1995 No. 268 rs. 2000 No. 239 rep. 2005 No. 240
c. 832.323	am. 2004 No. 93 rep. 2005 No. 240
c. 832.324	am. 2000 No. 62 rep. 2005 No. 240
c. 832.325	ad. 2005 No. 134 rep. 2005 No. 240
c. 832.411	rep. 2005 No. 240
Note to c. 832.411	rep. 1996 No. 75
c. 832.511	am. 1996 No. 211 rep. 2005 No. 240
c. 832.711	rs. 2005 No. 134 rep. 2005 No. 240
c. 832.712	ad. 2005 No. 134 rep. 2005 No. 240
Part 833	rep. 2000 No. 62
c. 833.211	rs. 1995 No. 268 rep. 2000 No. 62
c. 833.212	am. 1999 No. 81 rep. 2000 No. 62
cc. 833.221–833.223.....	rep. 2000 No. 62
c. 833.311	rs. 1995 No. 38 am. 1999 No. 81 rep. 2000 No. 62
c. 833.321	am. 1999 No. 81 rep. 2000 No. 62
cc. 833.322, 833.323.....	rep. 2000 No. 62
c. 833.411	rep. 2000 No. 62
Note to c. 833.411	rs. 1996 Nos. 75 and 211 am. 1996 No. 276 rep. 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 833.511	am. 1996 No. 211 rep. 2000 No. 62
c. 833.711	rep. 2000 No. 62
Part 834	
c. 834.221	am. 1999 No. 132
c. 834.711	rs. 2007 No. 315
c. 834.712	ad. 2007 No. 315
Part 835	
Part 835	ad. 1999 No. 259
Note to Div. 835.1	rep. 2002 No. 86
c. 835.111	ad. 2002 No. 86
Note to c. 835.111	rs. 2005 No. 221 am. 2009 No. 144
c. 835.211	ad. 1999 No. 259 rs. 2000 No. 259
c. 835.212	ad. 1999 No. 259 rs. 2002 No. 86
c. 835.213	ad. 2002 No. 86 am. 2009 No. 144
c. 835.221	ad. 1999 No. 259
c. 835.222	ad. 1999 No. 259 am. 2004 No. 93
c. 835.223	ad. 1999 No. 259 rs. 2007 No. 314
c. 835.224	ad. 1999 No. 259 am. 2007 No. 314
c. 835.225	ad. 1999 No. 259 rs. 2000 No. 62
c. 835.226	ad. 2000 No. 62
c. 835.227	ad. 2002 No. 86 rs. 2009 No. 116
c. 835.228	ad. 2005 No. 134
c. 835.311	ad. 1999 No. 259
c. 835.312	ad. 2002 No. 86 rs. 2009 No. 116
c. 835.321	ad. 1999 No. 259
c. 835.322	ad. 1999 No. 259 rs. 2007 No. 314
c. 835.323	ad. 1999 No. 259 am. 2004 No. 93
c. 835.324	ad. 1999 No. 259 am. 2000 No. 62

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 835.325	ad. 2002 No. 86 rs. 2009 No. 116
c. 835.326	ad. 2005 No. 134
c. 835.411	ad. 1999 No. 259
c. 835.511	ad. 1999 No. 259
c. 835.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 835.712	ad. 2005 No. 134
Part 836	
Part 836	ad. 1999 No. 259
Note to Div. 836.1	rep. 2002 No. 86
c. 836.111	ad. 2002 No. 86
c. 836.211	ad. 1999 No. 259 rs. 2000 No. 259
c. 836.212	ad. 1999 No. 259 rs. 2002 No. 86
c. 836.213	ad. 2002 No. 86 am. 2009 No. 144
c. 836.221	ad. 1999 No. 259
c. 836.222	ad. 1999 No. 259 am. 2004 No. 93 rep. 2007 No. 356
c. 836.223	ad. 1999 No. 259 rs. 2007 No. 314
c. 836.224	ad. 1999 No. 259 am. 2007 No. 314
c. 836.225	ad. 1999 No. 259 rs. 2000 No. 62
c. 836.226	ad. 2000 No. 62
c. 836.227	ad. 2002 No. 86
c. 836.228	ad. 2005 No. 134
c. 836.311	ad. 1999 No. 259
c. 836.312	ad. 2002 No. 86
c. 836.321	ad. 1999 No. 259
c. 836.322	ad. 1999 No. 259 rs. 2007 No. 314
c. 836.323	ad. 1999 No. 259 am. 2004 No. 93 rep. 2007 No. 356
c. 836.324	ad. 1999 No. 259 am. 2000 No. 62
c. 836.325	ad. 2002 No. 86

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 836.326	ad. 2005 No. 134
c. 836.411	ad. 1999 No. 259
c. 836.511	ad. 1999 No. 259
c. 836.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 836.712	ad. 2005 No. 134
Part 837	
Part 837	ad. 1999 No. 259
Note to Div. 837.1	rep. 2002 No. 86
c. 837.111	ad. 2002 No. 86
Note to c. 837.111	am. 2009 No. 144
c. 837.211	ad. 1999 No. 259 am. 2002 No. 86
c. 837.212	ad. 1999 No. 259 rs. 2000 No. 259
c. 837.213	ad. 1999 No. 259 rs. 2002 No. 86
c. 837.214	ad. 2002 No. 86 am. 2009 No. 144
c. 837.221	ad. 1999 No. 259
c. 837.222	ad. 1999 No. 259 am. 2004 No. 93
c. 837.223	ad. 1999 No. 259
c. 837.224	ad. 1999 No. 259
c. 837.225	ad. 1999 No. 259 am. 2000 No. 62
c. 837.226	ad. 2002 No. 86
c. 837.227	ad. 2005 No. 134
c. 837.311	ad. 1999 No. 259
c. 837.312	ad. 2002 No. 86
c. 837.321	ad. 1999 No. 259
c. 837.322	ad. 1999 No. 259
c. 837.323	ad. 1999 No. 259 am. 2004 No. 93
c. 837.324	ad. 1999 No. 259 am. 2000 No. 62
c. 837.325	ad. 2002 No. 86
c. 837.326	ad. 2005 No. 134
c. 837.411	ad. 1999 No. 259
c. 837.511	ad. 1999 No. 259

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 837.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 837.712	ad. 2005 No. 134
Part 838	
Part 838	ad. 1999 No. 259
Note to Div. 838.1	rep. 2002 No. 86
c. 838.111	ad. 2002 No. 86
c. 838.211	ad. 1999 No. 259 rs. 2000 No. 259
c. 838.212	ad. 1999 No. 259 rs. 2002 No. 86
c. 838.213	ad. 2002 No. 86 am. 2009 No. 144
c. 838.221	ad. 1999 No. 259
c. 838.222	ad. 1999 No. 259 am. 2004 No. 93
c. 838.223	ad. 1999 No. 259 am. 2007 No. 314
c. 838.224	ad. 1999 No. 259 am. 2007 No. 314
c. 838.225	ad. 1999 No. 259 rs. 2000 No. 62
c. 838.226	ad. 2000 No. 62
c. 838.227	ad. 2002 No. 86
c. 838.228	ad. 2005 No. 134
c. 838.311	ad. 1999 No. 259
c. 838.312	ad. 2002 No. 86
c. 838.321	ad. 1999 No. 259
c. 838.322	ad. 1999 No. 259 rs. 2007 No. 314
c. 838.323	ad. 1999 No. 259 am. 2004 No. 93
c. 838.324	ad. 1999 No. 259 am. 2000 No. 62
c. 838.325	ad. 2002 No. 86
c. 838.326	ad. 2005 No. 134
c. 838.411	ad. 1999 No. 259
c. 838.511	ad. 1999 No. 259
c. 838.711	ad. 1999 No. 259 rs. 2005 No. 134
c. 838.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 840	ad. 1995 No. 38 rep. 2002 No. 348
Note to Div. 840.1	rs. 1997 No. 109 rep. 2002 No. 348
c. 840.211	ad. 1995 No. 38 am. 1996 No. 76; 1999 No. 81 rep. 2002 No. 348
c. 840.212	ad. 1995 No. 38 rep. 2002 No. 348
c. 840.213	ad. 1995 No. 38 am. 1999 No. 220 rep. 2002 No. 348
cc. 840.214–840.219.....	ad. 1995 No. 38 rep. 2002 No. 348
cc. 840.221, 840.222.....	ad. 1995 No. 38 rep. 2002 No. 348
c. 840.223	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 840.224	ad. 1995 No. 38 am. 1995 No. 268; 1999 No. 81 rep. 2002 No. 348
c. 840.225	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 840.311	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 840.321	ad. 1995 No. 38 rs. 1995 No. 117 am. 1999 No. 81 rep. 2002 No. 348
c. 840.322	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 840.323	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 840.411	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 840.411.....	ad. 1996 No. 211 rep. 1996 No. 276
c. 840.511	ad. 1995 No. 38 am. 1996 No. 211 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Div. 840.6	rs. 1999 No. 81 rep. 2002 No. 348
c. 840.611	ad. 1995 No. 38 rep. 1999 No. 81
c. 840.711	ad. 1995 No. 38 rep. 2002 No. 348
Part 841	ad. 1995 No. 38 rep. 2002 No. 348
c. 841.111	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 841.111	rs. 1997 No. 109 rep. 2002 No. 348
c. 841.211	ad. 1995 No. 38 am. 1996 No. 76; 1999 No. 81 rep. 2002 No. 348
cc. 841.212–841.217	ad. 1995 No. 38 rep. 2002 No. 348
c. 841.221	ad. 1995 No. 38 am. 1999 No. 132 rep. 2002 No. 348
c. 841.222	ad. 1995 No. 38 rep. 2002 No. 348
c. 841.223	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 841.224	ad. 1995 No. 38 am. 1995 No. 268; 1999 No. 81 rep. 2002 No. 348
c. 841.225	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 841.311	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 841.321	ad. 1995 No. 38 rs. 1995 No. 117 am. 1999 No. 81 rep. 2002 No. 348
c. 841.322	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 841.323	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 841.411	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 841.411	ad. 1996 No. 211 rep. 1996 No. 276
c. 841.511	ad. 1995 No. 38 am. 1996 No. 211 rep. 2002 No. 348
Div. 841.6	rs. 1999 No. 81 rep. 2002 No. 348
c. 841.611	ad. 1995 No. 38 rep. 1999 No. 81
c. 841.711	ad. 1995 No. 38 rep. 2002 No. 348
Part 842	ad. 1995 No. 38 rep. 2002 No. 348
Note to Div. 842.1	rs. 1997 No. 109 rep. 2002 No. 348
c. 842.211	ad. 1995 No. 38 am. 1996 No. 76; 1999 No. 81 rep. 2002 No. 348
c. 842.212	ad. 1995 No. 38 rep. 2002 No. 348
c. 842.213	ad. 1995 No. 38 am. 1999 No. 220 rep. 2002 No. 348
cc. 842.214, 842.215.....	ad. 1995 No. 38 rep. 2002 No. 348
c. 842.216	ad. 1995 No. 38 rs. 2001 No. 86 rep. 2002 No. 348
cc. 842.217–842.219.....	ad. 1995 No. 38 rep. 2002 No. 348
c. 842.221	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 842.222	ad. 1995 No. 38 rep. 2002 No. 348
c. 842.223	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 842.224	ad. 1995 No. 38 am. 1995 No. 268; 1999 No. 81 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 842.225	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 842.226	ad. 1995 No. 38 rep. 2001 No. 86
c. 842.311	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 842.321	ad. 1995 No. 38 rs. 1995 No. 117 am. 1999 No. 81 rep. 2002 No. 348
c. 842.322	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 842.323	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 842.324	ad. 1995 No. 38 am. 1999 No. 81 rep. 2001 No. 86
c. 842.411	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 842.411	ad. 1996 No. 211 rep. 1996 No. 276
c. 842.511	ad. 1995 No. 38 am. 1996 No. 211 rep. 2002 No. 348
Div. 842.6	rs. 1999 No. 81 rep. 2002 No. 348
c. 842.611	ad. 1995 No. 38 rep. 1999 No. 81
c. 842.711	ad. 1995 No. 38 rep. 2002 No. 348
Part 843	ad. 1995 No. 38 rep. 2002 No. 348
c. 843.111	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 843.111	rs. 1997 No. 109 rep. 2002 No. 348
c. 843.211	ad. 1995 No. 38 am. 1996 No. 76; 1999 No. 81 rep. 2002 No. 348
cc. 843.212, 843.213	ad. 1995 No. 38 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 843.214	ad. 1995 No. 38 rs. 2001 No. 86 rep. 2002 No. 348
cc. 843.215–843.217	ad. 1995 No. 38 rep. 2002 No. 348
c. 843.221	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 843.222	ad. 1995 No. 38 rep. 2002 No. 348
c. 843.223	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 843.224	ad. 1995 No. 38 am. 1995 No. 268; 1999 No. 81 rep. 2002 No. 348
c. 843.225	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 843.226	ad. 1995 No. 38 rep. 2001 No. 86
c. 843.311	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 843.321	ad. 1995 No. 38 rs. 1995 No. 117 am. 1999 No. 81 rep. 2002 No. 348
c. 843.322	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 843.323	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 843.324	ad. 1995 No. 38 am. 1999 No. 81 rep. 2001 No. 86
c. 843.411	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 843.411	ad. 1996 No. 211 rep. 1996 No. 276
c. 843.511	ad. 1995 No. 38 am. 1996 No. 211 rs. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Div. 843.6	rs. 1999 No. 81 rep. 2002 No. 348
c. 843.611	ad. 1995 No. 38 rep. 1999 No. 81
c. 843.711	ad. 1995 No. 38 rep. 2002 No. 348
Part 844	ad. 1995 No. 38 rep. 2002 No. 348
c. 844.111	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 844.111	rs. 1997 No. 109 rep. 2002 No. 348
c. 844.211	ad. 1995 No. 38 rep. 2002 No. 348
c. 844.212	ad. 1995 No. 38 am. 1996 No. 76; 1999 No. 220 rep. 2002 No. 348
cc. 844.213–844.217	ad. 1995 No. 38 rep. 2002 No. 348
c. 844.221	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
cc. 844.222, 844.223	ad. 1995 No. 38 rep. 2002 No. 348
c. 844.224	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348
c. 844.225	ad. 1995 No. 38 am. 1995 No. 268; 1999 No. 81 rep. 2002 No. 348
c. 844.226	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 844.311	ad. 1995 No. 38 am. 1999 No. 81 rep. 2002 No. 348
c. 844.321	ad. 1995 No. 38 rs. 1995 No. 117 am. 1999 No. 81 rep. 2002 No. 348
c. 844.322	ad. 1995 No. 38 am. 1995 No. 268 rep. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 844.323	ad. 1995 No. 38 am. 2000 No. 62 rep. 2002 No. 348
c. 844.411	ad. 1995 No. 38 rep. 2002 No. 348
Note to c. 844.411	ad. 1996 No. 211 rep. 1996 No. 276
c. 844.511	ad. 1995 No. 38 am. 1996 No. 211 rep. 2002 No. 348
Div. 844.6	rs. 1999 No. 81 rep. 2002 No. 348
c. 844.611	ad. 1995 No. 38 rep. 1999 No. 81
c. 844.711	ad. 1995 No. 38 rep. 2002 No. 348
Part 845	
Part 845	ad. 1995 No. 38
Note to Div. 845.1	rep. 1997 No. 109
Note 1 to Div. 845.1	ad. 1997 No. 109
Note 2 to Div. 845.1	ad. 1997 No. 109
Note 3 to Div. 845.1	ad. 1997 No. 109
c. 845.211	ad. 1995 No. 38 am. 2007 No. 191; 2008 No. 189
c. 845.212	ad. 1995 No. 38 rs. 2008 No. 166 am. 2009 No. 144
c. 845.213	ad. 1995 No. 38
c. 845.214	ad. 1995 No. 38 rs. 1995 No. 268; 2008 No. 166 am. 2009 No. 144
c. 845.215	ad. 1995 No. 38 rs. 1995 No. 268; 2008 No. 166 am. 2009 No. 144
c. 845.216	ad. 1995 No. 38
c. 845.217	ad. 1995 No. 38
c. 845.218	ad. 1995 No. 38 am. 2009 No. 144
c. 845.219	ad. 1995 No. 38
c. 845.221	ad. 1995 No. 38 am. 1999 No. 81
c. 845.222	ad. 1995 No. 38 am. 2002 No. 348; 2008 No. 166

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 845.223	ad. 1995 No. 38 am. 1995 No. 268 rs. 2007 No. 314
c. 845.224	ad. 1995 No. 38 am. 1995 No. 268; 1999 No. 81; 2007 No. 314
c. 845.225	ad. 1995 No. 38 am. 2000 No. 62
c. 845.226	ad. 2005 No. 134
c. 845.311	ad. 1995 No. 38 am. 1999 No. 81; 2002 No. 348
c. 845.321	ad. 1995 No. 38 rs. 1995 No. 117 am. 1999 No. 81; 2007 No. 315 am. 2009 No. 144
Note to c. 845.321 (4)	am. 2007 No. 315
c. 845.322	ad. 1995 No. 38 am. 1995 No. 268 rs. 2007 No. 314
c. 845.323	ad. 1995 No. 38 am. 2000 No. 62
c. 845.324	ad. 2005 No. 134
c. 845.411	ad. 1995 No. 38
Note to c. 845.411	ad. 1996 No. 211 rep. 1996 No. 276
c. 845.511	ad. 1995 No. 38 am. 1996 No. 211
Div. 845.6	rs. 1999 No. 81
c. 845.611	ad. 1995 No. 38 rep. 1999 No. 81
c. 845.711	ad. 1995 No. 38 am. 1997 No. 109 rs. 2005 No. 134
c. 845.712	ad. 2005 No. 134
Part 846	
Part 846	ad. 1997 No. 109
c. 846.111	ad. 1997 No. 109 am. 2006 No. 238
c. 846.211	ad. 1997 No. 109
c. 846.212	ad. 1997 No. 109
c. 846.213	ad. 1997 No. 109 rs. 2008 No. 166 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 846.214	ad. 1997 No. 109 rs. 2008 No. 166 am. 2009 No. 144
c. 846.215	ad. 1997 No. 109
c. 846.216	ad. 1997 No. 109
c. 846.217	ad. 1997 No. 109 am. 2009 No. 144
c. 846.218	ad. 1997 No. 109
c. 846.219	ad. 1997 No. 109
c. 846.221	ad. 1997 No. 109 am. 1999 No. 81
c. 846.222	ad. 1997 No. 109 am. 2000 No. 259; 2002 No. 348; 2008 No. 166
c. 846.223	ad. 1997 No. 109
c. 846.224	ad. 1997 No. 109 rs. 2006 No. 238; 2007 No. 314
c. 846.225	ad. 1997 No. 109 rs. 2006 No. 238 am. 2007 No. 314
c. 846.226	ad. 1997 No. 109 am. 2000 No. 62
c. 846.227	ad. 2005 No. 134
c. 846.311	ad. 1997 No. 109 am. 2002 No. 348
c. 846.321	ad. 1997 No. 109 am. 2007 No. 315; 2009 No. 144
Note to c. 846.321 (4)	am. 2007 No. 315
c. 846.322	ad. 1997 No. 109 rs. 2006 No. 238; 2007 No. 314
c. 846.323	ad. 1997 No. 109 am. 2000 No. 62
c. 846.324	ad. 2005 No. 134
c. 846.411	ad. 1997 No. 109
c. 846.511	ad. 1997 No. 109
Div. 846.6	rs. 1999 No. 81
c. 846.611	ad. 1997 No. 109 rep. 1999 No. 81
c. 846.711	ad. 1997 No. 109 rs. 2005 No. 134
c. 846.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 850	
Part 850	ad. 1997 No. 279
Note to Div. 850.1	ad. 1997 No. 279 rs. 1998 No. 36
Note to Div. 850.2	ad. 1997 No. 279 rs. 1998 No. 36 am. 2009 No. 144
c. 850.211	ad. 1997 No. 279
c. 850.212	ad. 1997 No. 279
c. 850.213	ad. 1997 No. 279
c. 850.214	ad. 1997 No. 279
c. 850.215	ad. 1997 No. 279
c. 850.216	ad. 1997 No. 279
c. 850.217	ad. 1997 No. 279
c. 850.221	ad. 1997 No. 279
c. 850.222	ad. 1997 No. 279 am. 1998 No. 36; 2009 No. 144
c. 850.223	ad. 1997 No. 279
c. 850.224	ad. 1997 No. 279
c. 850.225	ad. 1997 No. 279
c. 850.226	ad. 1997 No. 279 am. 2000 No. 62
Note to Div. 850.3	ad. 1997 No. 279 rs. 1998 No. 36 am. 2009 No. 144
c. 850.311	ad. 1997 No. 279 rs. 1998 No. 36 am. 2009 No. 144
c. 850.312	ad. 1997 No. 279 rs. 1998 No. 36 am. 2009 No. 144
c. 850.313	ad. 1997 No. 279
c. 850.314	ad. 1997 No. 279
c. 850.321	ad. 1997 No. 279 am. 1998 No. 36; 2009 No. 144
c. 850.322	ad. 1997 No. 279
c. 850.323	ad. 1997 No. 279
c. 850.324	ad. 1997 No. 279
c. 850.325	ad. 1997 No. 279 am. 2000 No. 62
c. 850.411	ad. 1997 No. 279
c. 850.511	ad. 1997 No. 279

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 850.711	ad. 1997 No. 279
Part 851	
Part 851	ad. 1997 No. 279 rs. 2008 No. 168
Note to Div. 851.1	ad. 1997 No. 279 rs. 1998 No. 36; 2008 No. 168
Note to Div. 851.2	ad. 1997 No. 279 rs. 1998 No. 36; 2008 No. 168
c. 851.221	ad. 1997 No. 279 am. 1999 No. 68 rs. 2008 No. 168
c. 851.222	ad. 1997 No. 279 rs. 2008 No. 168
c. 851.223	ad. 1997 No. 279 rs. 2008 No. 168
c. 851.224	ad. 1997 No. 279 am. 1998 No. 36 rs. 2008 No. 168
c. 851.225	ad. 1997 No. 279 rs. 2008 No. 168
c. 851.226	ad. 1997 No. 279 am. 2000 No. 62 rs. 2008 No. 168
c. 851.227	ad. 2008 No. 168
Note to Div. 851.3	ad. 1997 No. 279 rs. 1998 No. 36; 2008 No. 168
c. 851.311	ad. 1997 No. 279 rep. 2008 No. 168
c. 851.321	ad. 1997 No. 279 am. 1998 No. 36; 2007 No. 315 rep. 2008 No. 168
Note to c. 851.321 (6)	am. 2007 No. 315 rep. 2008 No. 168
c. 851.322	ad. 1997 No. 279 rep. 2008 No. 168
c. 851.323	ad. 1997 No. 279 am. 2000 No. 62 rep. 2008 No. 168
c. 851.411	ad. 1997 No. 279 rs. 2008 No. 168
c. 851.511	ad. 1997 No. 279 rs. 2008 No. 168
c. 851.711	ad. 1997 No. 279 rs. 2008 No. 168

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 851.712	ad. 2008 No. 168
Part 852	
Part 852	ad. 2003 No. 363
c. 852.211	ad. 2003 No. 363
c. 852.221	ad. 2003 No. 363 rep. 2009 No. 116
c. 852.222	ad. 2003 No. 363 rs. 2007 No. 314
c. 852.223	ad. 2003 No. 363
c. 852.224	ad. 2003 No. 363 rs. 2007 No. 314
c. 852.311	ad. 2003 No. 363
c. 852.312	ad. 2003 No. 363
c. 852.321	ad. 2003 No. 363 rs. 2007 No. 314
c. 852.322	ad. 2003 No. 363
c. 852.323	ad. 2003 No. 363
c. 852.324	ad. 2003 No. 363
c. 852.411	ad. 2003 No. 363 rs. 2009 No. 116
c. 852.511	ad. 2003 No. 363
Div. 852.6	rs. 2009 No. 116
c. 852.611	rs. 2009 No. 116
c. 852.711	ad. 2003 No. 363 rs. 2005 No. 134
c. 852.712	ad. 2005 No. 134
Part 855	
Part 855	ad. 1999 No. 220
Note to Div. 855.1	ad. 1999 No. 220 am. 2002 No. 86 rep. 2005 No. 54
Notes 1–7 to Div. 855.1	ad. 2005 No. 54 rep. 2006 No. 238
c. 855.111	ad. 2006 No. 238
Notes 1–3 to c. 855.111	ad. 2006 No. 238
Note 3A to c. 855.111	ad. 2007 No. 257
Notes 4–7 to c. 855.111	ad. 2006 No. 238
c. 855.211	ad. 1999 No. 220 am. 2000 No. 62; 2001 No. 142; 2004 No. 390; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 855.212	ad. 1999 No. 220 am. 2001 Nos. 142 and 162; 2002 No. 86; 2005 No. 221; 2007 No. 257
c. 855.212A	ad. 2002 No. 213
c. 855.213	ad. 1999 No. 220 rs. 2003 No. 239 am. 2005 No. 54; 2007 No. 257
c. 855.214	ad. 2007 No. 257
c. 855.221	ad. 1999 No. 220 rs. 2003 No. 239; 2005 No. 54
c. 855.222	ad. 1999 No. 220 rs. 2003 No. 239; 2005 No. 54
c. 855.223	ad. 1999 No. 220 rs. 2006 No. 238; 2007 No. 314
c. 855.224	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 855.225	ad. 1999 No. 220 am. 2002 No. 213; 2006 No. 238; 2007 No. 314
c. 855.226	ad. 1999 No. 220 am. 2000 No. 62
c. 855.227	ad. 2005 No. 134
c. 855.311	ad. 1999 No. 220
c. 855.312	ad. 1999 No. 220 rs. 2005 No. 54
c. 855.313	ad. 2002 No. 213
c. 855.321	ad. 1999 No. 220 am. 2007 No. 315; 2009 No. 144
Note to c. 855.321 (4)	am. 2007 No. 315
c. 855.322	ad. 1999 No. 220 rs. 2006 No. 238; 2007 No. 314
c. 855.323	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 855.324	ad. 1999 No. 220 am. 2000 No. 62
c. 855.325	ad. 2005 No. 134
c. 855.411	ad. 1999 No. 220 rs. 2009 No. 116
c. 855.511	ad. 1999 No. 220
c. 855.711	ad. 1999 No. 220 rs. 2005 No. 134
c. 855.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 856	
Part 856	ad. 1999 No. 220
Note to Div. 856.1	ad. 1999 No. 220 am. 2002 No. 86; 2006 No. 238 rep. 2007 No. 257
c. 856.111	ad. 2006 No. 238
Notes 1–7 to c. 856.111	ad. 2007 No. 257
c. 856.211	ad. 1999 No. 220 am. 2000 No. 62; 2001 No. 142; 2004 No. 390; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205
c. 856.212	ad. 1999 No. 220 am. 2001 Nos. 142 and 162; 2002 Nos. 86 and 348; 2005 No. 221; 2007 No. 257
c. 856.212A	ad. 2002 No. 213
c. 856.213	ad. 1999 No. 220 rs. 2005 No. 54 am. 2006 No. 238; 2007 No. 257
c. 856.214	ad. 1999 No. 220
c. 856.215	ad. 2005 No. 54
c. 856.221	ad. 1999 No. 220 rs. 2005 No. 54
c. 856.222	ad. 1999 No. 220
c. 856.223	ad. 1999 No. 220 rs. 2006 No. 238 am. 2007 No. 257 rs. 2007 No. 314
c. 856.224	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 856.225	ad. 1999 No. 220 am. 2002 No. 213; 2006 No. 238; 2007 Nos. 257 and 314
c. 856.226	ad. 1999 No. 220 am. 2000 No. 62
c. 856.227	ad. 2005 No. 134
c. 856.311	ad. 1999 No. 220
c. 856.312	ad. 1999 No. 220 rs. 2005 No. 54
c. 856.313	ad. 2002 No. 213
c. 856.321	ad. 1999 No. 220 am. 2007 No. 315; 2009 No. 144
Note to c. 856.321 (4)	am. 2007 No. 315

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 856.322	ad. 1999 No. 220 rs. 2006 No. 238 am. 2007 No. 257 rs. 2007 No. 314
c. 856.323	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 856.324	ad. 1999 No. 220 am. 2000 No. 62
c. 856.325	ad. 2005 No. 134
c. 856.411	ad. 1999 No. 220
c. 856.511	ad. 1999 No. 220
c. 856.711	ad. 1999 No. 220 rs. 2005 No. 134
c. 856.712	ad. 2005 No. 134
Part 857	
Part 857	ad. 1999 No. 220
Div. 857.1	rs. 2005 No. 54
Note to Div. 857.1	ad. 1999 No. 220 am. 2002 No. 86 rep. 2005 No. 54
c. 857.111	ad. 2005 No. 54 am. 2006 No. 238
Note 4A to c. 857.111	ad. 2007 No. 257
c. 857.211	ad. 1999 No. 220 am. 2000 No. 62; 2001 No. 142; 2004 No. 390; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205
c. 857.212	ad. 1999 No. 220 am. 2001 Nos. 142 and 162; 2002 Nos. 86 and 348; 2004 No. 131; 2005 Nos. 221 and 240; 2007 No. 257
c. 857.212A	ad. 2002 No. 213
c. 857.213	ad. 1999 No. 220 am. 2001 Nos. 27 and 162 rs. 2005 No. 54 am. 2007 No. 257
c. 857.214	ad. 1999 No. 220
c. 857.215	ad. 2004 No. 131 rs. 2006 No. 250 rep. 2007 No. 257
c. 857.215A	ad. 2006 No. 250 rep. 2007 No. 257
c. 857.216	ad. 2004 No. 131 rs. 2007 No. 257

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 857.221	ad. 1999 No. 220 rs. 2005 No. 54
c. 857.222	ad. 1999 No. 220
c. 857.223	ad. 1999 No. 220 rs. 2004 No. 131; 2006 No. 238 am. 2007 No. 257 rs. 2007 No. 314
c. 857.224	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 857.225	ad. 1999 No. 220 am. 2002 No. 213; 2004 No. 131; 2006 No. 238; 2007 Nos. 257 and 314
c. 857.226	ad. 1999 No. 220 am. 2000 No. 62
c. 857.227	ad. 2005 No. 134
c. 857.311	ad. 1999 No. 220
c. 857.312	ad. 1999 No. 220 rs. 2005 No. 54
c. 857.313	ad. 2002 No. 213
c. 857.314	ad. 2004 No. 131 rs. 2007 No. 257
c. 857.321	ad. 1999 No. 220 am. 2007 No. 315; 2009 No. 144
Note to c. 857.321 (4)	am. 2007 No. 315
c. 857.322	ad. 1999 No. 220 rs. 2004 No. 131; 2006 No. 238 am. 2007 No. 257 rs. 2007 No. 314
c. 857.323	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 857.324	ad. 1999 No. 220 am. 2000 No. 62
c. 857.325	ad. 2005 No. 134
c. 857.411	ad. 1999 No. 220 rs. 2004 No. 131
c. 857.412	ad. 2004 No. 131
c. 857.511	ad. 1999 No. 220
c. 857.711	ad. 1999 No. 220 rs. 2005 No. 134
c. 857.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 858	
Part 858	ad. 1999 No. 220
c. 858.211	ad. 1999 No. 220 am. 2000 No. 62; 2001 No. 142; 2004 No. 390; 2005 No. 133; 2007 No. 191; 2008 Nos. 189 and 205
c. 858.212	ad. 1999 No. 220 am. 2003 No. 239; 2006 No. 123
c. 858.221	ad. 1999 No. 220 rs. 2007 No. 314
c. 858.222	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 858.223	ad. 1999 No. 220 am. 2007 No. 314
c. 858.224	ad. 1999 No. 220 am. 2000 No. 62
c. 858.225	ad. 2003 No. 239
c. 858.226	ad. 2005 No. 134
Note to Div. 858.3	ad. 1999 No. 220 rep. 2003 No. 239
Note 1 to Div. 858.3	ad. 2003 No. 239
Note 2 to Div. 858.3	ad. 2003 No. 239
c. 858.311	ad. 1999 No. 220
c. 858.312	ad. 1999 No. 220
c. 858.321	ad. 1999 No. 220 am. 2007 No. 315; 2009 No. 144
Note to c. 858.321 (4)	am. 2007 No. 315
c. 858.322	ad. 1999 No. 220 rs. 2007 No. 314
c. 858.323	ad. 1999 No. 220 am. 2004 No. 93 rep. 2008 No. 166
c. 858.324	ad. 1999 No. 220 am. 2000 No. 62
c. 858.325	ad. 2005 No. 134
c. 858.411	ad. 1999 No. 220
c. 858.511	ad. 1999 No. 220
c. 858.711	ad. 1999 No. 220 rs. 2005 No. 134
c. 858.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 859	
Part 859	ad. 1999 No. 260 (as am. by 1999 No. 321)
c. 859.211	ad. 1999 No. 260
c. 859.212	ad. 1999 No. 260
c. 859.221	ad. 1999 No. 260
c. 859.222	ad. 1999 No. 260
c. 859.223	ad. 1999 No. 260
c. 859.224	ad. 1999 No. 260 am. 2004 No. 93
c. 859.225	ad. 1999 No. 260
c. 859.226	ad. 1999 No. 260
c. 859.227	ad. 1999 No. 260 am. 2000 No. 62
c. 859.311	ad. 1999 No. 260
c. 859.321	ad. 1999 No. 260 am. 2009 No. 144
c. 859.322	ad. 1999 No. 260
c. 859.323	ad. 1999 No. 260 am. 2004 No. 93
c. 859.324	ad. 1999 No. 260 am. 2000 No. 62
c. 859.411	ad. 1999 No. 260
c. 859.511	ad. 1999 No. 260
c. 859.711	ad. 1999 No. 260
Part 861	
Part 861	ad. 2001 No. 27
c. 861.111	ad. 2001 No. 27 am. 2005 No. 240
c. 861.210	ad. 2007 No. 257
c. 861.211	ad. 2001 No. 27 rep. 2006 No. 250
c. 861.212	ad. 2001 No. 27
c. 861.213	ad. 2001 No. 27 am. 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 861.214	ad. 2001 No. 27
c. 861.221	ad. 2001 No. 27
c. 861.222	ad. 2001 No. 27 am. 2006 No. 159 rs. 2006 No. 250
c. 861.223	ad. 2001 No. 27
c. 861.224	ad. 2001 No. 27

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 861.225	ad. 2001 No. 27
c. 861.226	ad. 2001 No. 27
c. 861.227	ad. 2001 No. 27
c. 861.228	ad. 2001 No. 27 am. 2004 No. 93 rep. 2007 No. 257
c. 861.229	ad. 2001 No. 27
c. 861.230	ad. 2001 No. 27
c. 861.231	ad. 2001 No. 27 am. 2006 No. 250
c. 861.232	ad. 2005 No. 134
c. 861.311	ad. 2001 No. 27
c. 861.321	ad. 2001 No. 27
c. 861.322	ad. 2001 No. 27
c. 861.323	ad. 2001 No. 27
c. 861.324	ad. 2001 No. 27 am. 2004 No. 93 rep. 2007 No. 257
c. 861.325	ad. 2001 No. 27
c. 861.326	ad. 2005 No. 134
c. 861.411	ad. 2001 No. 27
c. 861.511	ad. 2001 No. 27
c. 861.711	ad. 2001 No. 27 rs. 2005 No. 134
c. 861.712	ad. 2005 No. 134
Part 862	
Part 862	ad. 2001 No. 27
c. 862.111	ad. 2001 No. 27 am. 2005 No. 240
c. 862.210	ad. 2007 No. 257
c. 862.211	ad. 2001 No. 27 am. 2005 No. 240; 2006 Nos. 250 and 354; 2009 No. 144
c. 862.212	ad. 2001 No. 27
c. 862.213	ad. 2001 No. 27 rep. 2004 No. 93
c. 862.214	ad. 2001 No. 27 rep. 2006 No. 250
c. 862.215	ad. 2001 No. 27
c. 862.216	ad. 2001 No. 27 am. 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 862.217	ad. 2001 No. 27

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 862.218	ad. 2001 No. 27 rep. 2006 No. 250
c. 862.221	ad. 2001 No. 27
c. 862.222	ad. 2001 No. 27 am. 2004 No. 93 rep. 2007 No. 257
c. 862.223	ad. 2001 No. 27
c. 862.224	ad. 2001 No. 27 am. 2006 No. 159 rs. 2006 No. 250
c. 862.225	ad. 2001 No. 27
Note to c. 862.225.....	am. 2009 No. 144
c. 862.226	ad. 2001 No. 27
c. 862.227	ad. 2001 No. 27
c. 862.228	ad. 2001 No. 27 am. 2009 No. 144
c. 862.229	ad. 2001 No. 27
c. 862.230	ad. 2001 No. 27
c. 862.231	ad. 2001 No. 27
c. 862.232	ad. 2001 No. 27
c. 862.233	ad. 2001 No. 27 am. 2006 No. 250
c. 862.234	ad. 2005 No. 134
c. 862.311	ad. 2001 No. 27
c. 862.312	ad. 2001 No. 27
c. 862.313	ad. 2001 No. 27 rep. 2004 No. 93
c. 862.321	ad. 2001 No. 27
c. 862.322	ad. 2001 No. 27
c. 862.323	ad. 2001 No. 27 am. 2004 No. 93 rep. 2007 No. 257
c. 862.324	ad. 2001 No. 27
c. 862.325	ad. 2001 No. 27
c. 862.326	ad. 2001 No. 27
c. 862.327	ad. 2005 No. 134
c. 862.411	ad. 2001 No. 27
c. 862.511	ad. 2001 No. 27
c. 862.711	ad. 2001 No. 27 rs. 2005 No. 134
c. 862.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 863	
Heading to Part 863	rs. 2001 No. 142
Part 863	ad. 2001 No. 27
c. 863.111	ad. 2001 No. 27 am. 2005 No. 240; 2006 No. 250
c. 863.210	ad. 2007 No. 257
c. 863.211	ad. 2001 No. 27 am. 2005 No. 240; 2006 Nos. 250 and 354; 2009 No. 144
c. 863.212	ad. 2001 No. 27
c. 863.213	ad. 2001 No. 27
c. 863.214	ad. 2001 No. 27 rep. 2004 No. 93
c. 863.215	ad. 2001 No. 27 rep. 2006 No. 250
c. 863.216	ad. 2001 No. 27
c. 863.217	ad. 2001 No. 27 am. 2003 No. 122; 2005 No. 240; 2006 No. 250
c. 863.218	ad. 2001 No. 27 rep. 2006 No. 250
c. 863.219	ad. 2001 No. 27
c. 863.221	ad. 2001 No. 27
c. 863.222	ad. 2001 No. 27
c. 863.223	ad. 2001 No. 27 am. 2004 No. 93 rep. 2007 No. 257
c. 863.224	ad. 2001 No. 27
c. 863.225	ad. 2001 No. 27 am. 2006 No. 159 rs. 2006 No. 250
c. 863.226	ad. 2001 No. 27 am. 2006 No. 250
c. 863.227	ad. 2001 No. 27
c. 863.228	ad. 2001 No. 27 am. 2009 No. 144
c. 863.229	ad. 2001 No. 27
c. 863.230	ad. 2001 No. 27
c. 863.231	ad. 2001 No. 27
c. 863.232	ad. 2001 No. 27
c. 863.233	ad. 2001 No. 27
c. 863.234	ad. 2001 No. 27 am. 2006 No. 250
c. 863.235	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 863.311	ad. 2001 No. 27
c. 863.312	ad. 2001 No. 27
c. 863.313	ad. 2001 No. 27 rep. 2004 No. 93
c. 863.321	ad. 2001 No. 27
c. 863.322	ad. 2001 No. 27
c. 863.323	ad. 2001 No. 27 am. 2004 No. 93 rep. 2007 No. 257
c. 863.324	ad. 2001 No. 27
c. 863.325	ad. 2001 No. 27
c. 863.326	ad. 2001 No. 27
c. 863.327	ad. 2005 No. 134
c. 863.411	ad. 2001 No. 27
c. 863.511	ad. 2001 No. 27
c. 863.711	ad. 2001 No. 27 rs. 2005 No. 134
c. 863.712	ad. 2005 No. 134
Part 864	
Part 864	ad. Act No. 5, 2003
Div. 864.1	rs. 2007 No. 274
Note to Div. 864.1	rep. 2007 No. 274
c. 864.111	ad. 2007 No. 274
Note to c. 864.111	am. 2009 No. 144
c. 864.211	ad. Act No. 5, 2003
c. 864.212	ad. Act No. 5, 2003 am. 2006 No. 10
c. 864.213	ad. Act No. 5, 2003 am. 2009 Nos. 116 and 144
c. 864.214	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 864.221	ad. Act No. 5, 2003
c. 864.222	ad. Act No. 5, 2003 rs. 2009 No. 116
c. 864.222A	ad. 2009 No. 116
c. 864.223	ad. Act No. 5, 2003 rs. 2006 No. 10 am. 2007 No. 314; 2009 No. 116
c. 864.224	ad. Act No. 5, 2003 am. 2007 No. 314
c. 864.225	ad. Act No. 5, 2003

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 864.226	ad. Act No. 5, 2003 am. 2004 No. 93
c. 864.227	ad. Act No. 5, 2003 rs. 2006 No. 10 am. 2007 No. 314
c. 864.228	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 864.229	ad. Act No. 5, 2003
c. 864.230	ad. Act No. 5, 2003
c. 864.231	ad. 2005 No. 134
c. 864.311	ad. Act No. 5, 2003
c. 864.312	ad. Act No. 5, 2003 rs. 2004 No. 93
c. 864.321	ad. Act No. 5, 2003
c. 864.322	ad. Act No. 5, 2003 am. 2004 No. 93
c. 864.323	ad. Act No. 5, 2003 rs. 2007 No. 314
c. 864.324	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 864.325	ad. Act No. 5, 2003
c. 864.326	ad. Act No. 5, 2003
c. 864.327	ad. Act No. 5, 2003 am. 2004 No. 93
c. 864.328	ad. Act No. 5, 2003
c. 864.329	ad. Act No. 5, 2003
c. 864.330	ad. 2005 No. 134
c. 864.411	ad. Act No. 5, 2003
c. 864.511	ad. Act No. 5, 2003
c. 864.711	ad. Act No. 5, 2003 rs. 2005 No. 134
c. 864.712	ad. 2005 No. 134
Part 866	
Heading to Part 866	rs. 1997 No. 137
c. 866.111	am. 2001 No. 142; 2008 No. 168
c. 866.112	ad. 1995 No. 268
c. 866.211	am. 1995 No. 268; 1999 No. 243; 2001 No. 142
c. 866.212	ad. 1999 No. 243 rs. 2001 No. 142 am. 2001 No. 246 rep. 2008 No. 168

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 866.213	ad. 2000 No. 259 rs. 2001 No. 142 rep. 2008 No. 168
c. 866.214	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 866.215	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 866.221	rs. 1995 No. 268
c. 866.222	rs. 1995 No. 268 am. 1997 No. 137; 1999 No. 243; 2001 No. 142
c. 866.222A	ad. 2001 No. 246 rs. 2007 No. 315 rep. 2008 No. 168
c. 866.222B	ad. 2001 No. 246 rs. 2007 No. 315 rep. 2008 No. 168
c. 866.223	am. 1999 No. 81 rs. 2000 No. 62
c. 866.224	am. 1999 Nos. 64 and 81; 2000 No. 62; 2003 No. 94
c. 866.224A	ad. 2000 No. 62
c. 866.224B	ad. 2000 No. 62
c. 866.225	am. 1995 No. 117; 1999 No. 81; 2006 No. 10 rs. 2007 No. 314
c. 866.227	ad. 1999 No. 243 am. 2000 No. 62 rs. 2000 No. 108 am. 2000 No. 192
c. 866.227A	ad. 2000 No. 62 rep. 2000 No. 108
c. 866.228	ad. 1999 No. 243 rs. 2002 No. 213 rep. 2008 No. 168
c. 866.228A	ad. Act No. 128, 2001 rep. 2008 No. 168
c. 866.229	ad. 2000 No. 192 rep. 2008 No. 168
c. 866.230	ad. 2001 No. 142
c. 866.231	ad. 2008 No. 168
c. 866.232	ad. 2008 No. 168
Note to Div. 866.3	ad. 2004 No. 269
(second occurring)	rep. 2008 No. 168
c. 866.411	rs. 1995 No. 38
c. 866.511	am. 1996 No. 211; 1999 No. 243

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 866.711	rs. 2005 No. 134
c. 866.712	ad. 2005 No. 134
Part 880	
Part 880	ad. 2001 No. 162
Subdiv. 880.21	rs. 2005 No. 133
Note to Subdiv. 880.21	rep. 2005 No. 133
c. 880.210	ad. 2007 No. 257
c. 880.211	ad. 2005 No. 133
c. 880.212	ad. 2005 No. 133
c. 880.213	ad. 2005 No. 133
c. 880.214	ad. 2005 No. 133 rs. 2006 No. 250
c. 880.215	ad. 2005 No. 133
c. 880.216	ad. 2005 No. 133 rs. 2006 No. 250
c. 880.221	ad. 2001 No. 162
c. 880.222	ad. 2001 No. 162
c. 880.222A	ad. 2002 No. 86 am. 2005 No. 240
c. 880.223	ad. 2001 No. 162
c. 880.224	ad. 2001 No. 162 rs. 2005 No. 133
c. 880.225	ad. 2001 No. 162
c. 880.226	ad. 2001 No. 162 am. 2004 No. 93 rep. 2007 No. 257
c. 880.227	ad. 2001 No. 162
c. 880.228	ad. 2001 No. 162
c. 880.229	ad. 2001 No. 162 am. 2006 No. 250
c. 880.230	ad. 2005 No. 133 am. 2006 Nos. 159 and 250
c. 880.231	ad. 2005 No. 133 am. 2006 No. 250
c. 880.232	ad. 2005 No. 134
Subdiv. 880.31	rs. 2005 No. 133
Note to Subdiv. 880.31	rep. 2005 No. 133
c. 880.311	ad. 2005 No. 133
c. 880.312	ad. 2005 No. 133
c. 880.313	ad. 2005 No. 133 rs. 2006 No. 250

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 880.321	ad. 2001 No. 162
c. 880.322	ad. 2001 No. 162
c. 880.323	ad. 2001 No. 162 am. 2004 No. 93 rep. 2007 No. 257
c. 880.324	ad. 2001 No. 162
c. 880.325	ad. 2005 No. 133
c. 880.326	ad. 2005 No. 134
c. 880.411	ad. 2001 No. 162
c. 880.511	ad. 2001 No. 162
c. 880.711	ad. 2001 No. 162 rs. 2005 No. 134
c. 880.712	ad. 2005 No. 134
Part 881	
Part 881	ad. 2001 No. 162
Subdiv. 881.21	rs. 2004 No. 93; 2005 No. 133
c. 881.210	ad. 2007 No. 257
c. 881.211	ad. 2001 No. 162 rs. 2004 No. 93; 2005 No. 133 ad. 2005 No. 133 rs. 2006 No. 250
c. 881.212	ad. 2005 No. 133
c. 881.213	ad. 2005 No. 133
c. 881.214	ad. 2005 No. 133 am. 2006 No. 250
c. 881.215	ad. 2005 No. 133
c. 881.216	ad. 2005 No. 133 rs. 2006 No. 250
c. 881.221	ad. 2001 No. 162
c. 881.222	ad. 2001 No. 162 am. 2004 No. 93 rep. 2007 No. 257
c. 881.223	ad. 2001 No. 162
c. 881.224	ad. 2001 No. 162
Note to c. 881.224.....	am. 2009 No. 144
c. 881.224A.....	ad. 2002 No. 86 am. 2005 No. 240
c. 881.225	ad. 2001 No. 162
c. 881.226	ad. 2001 No. 162 rs. 2005 No. 133

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 881.227	ad. 2001 No. 162 am. 2003 No. 122 rep. 2006 No. 250
c. 881.228	ad. 2001 No. 162
c. 881.229	ad. 2001 No. 162
c. 881.230	ad. 2001 No. 162
c. 881.231	ad. 2001 No. 162 am. 2006 No. 250
c. 881.232	ad. 2005 No. 133 am. 2006 Nos. 159 and 250; 2009 No. 144
c. 881.233	ad. 2005 No. 133
c. 881.234	ad. 2005 No. 134
c. 881.311	ad. 2001 No. 162 am. 2004 No. 390
c. 881.312	ad. 2001 No. 162 rep. 2004 No. 93 ad. 2005 No. 133
c. 881.313	ad. 2005 No. 133
c. 881.314	ad. 2005 No. 133 rs. 2006 No. 250
c. 881.321	ad. 2001 No. 162
c. 881.322	ad. 2001 No. 162
c. 881.323	ad. 2001 No. 162 am. 2004 No. 93 rep. 2007 No. 257
c. 881.324	ad. 2001 No. 162
c. 881.325	ad. 2001 No. 162
c. 881.326	ad. 2005 No. 133
c. 881.327	ad. 2005 No. 134
c. 881.411	ad. 2001 No. 162
c. 881.511	ad. 2001 No. 162
c. 881.711	ad. 2001 No. 162 rs. 2005 No. 134
c. 881.712	ad. 2005 No. 134
Part 882	
Part 882	ad. 2001 No. 162
Subdiv. 882.21	rs. 2004 No. 93; 2005 No. 133
c. 882.210	ad. 2007 No. 257
c. 882.211	ad. 2001 No. 162 rep. 2004 No. 93 ad. 2005 No. 133 rs. 2006 No. 250

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 882.212	ad. 2005 No. 133
c. 882.213	ad. 2005 No. 133
c. 882.214	ad. 2005 No. 133 am. 2006 No. 250
c. 882.215	ad. 2005 No. 133
c. 882.216	ad. 2005 No. 133 rs. 2006 No. 250
c. 882.221	ad. 2001 No. 162
c. 882.222	ad. 2001 No. 162
c. 882.223	ad. 2001 No. 162 am. 2004 No. 93 rep. 2007 No. 257
c. 882.224	ad. 2001 No. 162
c. 882.225	ad. 2001 No. 162 am. 2006 No. 250
c. 882.226	ad. 2001 No. 162 rs. 2005 No. 133
c. 882.227	ad. 2001 No. 162 am. 2003 No. 122 rep. 2006 No. 250
c. 882.228	ad. 2001 No. 162
c. 882.229	ad. 2001 No. 162
c. 882.230	ad. 2001 No. 162
c. 882.231	ad. 2001 No. 162
c. 882.232	ad. 2001 No. 162 am. 2006 No. 250
c. 882.233	ad. 2005 No. 133 am. 2006 Nos. 159 and 250; 2009 No. 144
c. 882.234	ad. 2005 No. 133
c. 882.235	ad. 2005 No. 134
c. 882.311	ad. 2001 No. 162 am. 2004 No. 390
c. 882.312	ad. 2001 No. 162 rep. 2004 No. 93 ad. 2005 No. 133
c. 882.313	ad. 2005 No. 133
c. 882.314	ad. 2005 No. 133 rs. 2006 No. 250
c. 882.321	ad. 2001 No. 162
c. 882.322	ad. 2001 No. 162

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 882.323	ad. 2001 No. 162 am. 2004 No. 93 rep. 2007 No. 257
c. 882.324	ad. 2001 No. 162
c. 882.325	ad. 2001 No. 162
c. 882.326	ad. 2005 No. 133
c. 882.327	ad. 2005 No. 134
c. 882.411	ad. 2001 No. 162
c. 882.511	ad. 2001 No. 162
c. 882.711	ad. 2001 No. 162 rs. 2005 No. 134
c. 882.712	ad. 2005 No. 134
Part 883	
Part 883	ad. 2006 No. 159
c. 883.111	ad. 2006 No. 159 am. 2006 No. 250
c. 883.210	ad. 2007 No. 257
c. 883.211	ad. 2006 No. 159 am. 2006 No. 354; 2009 No. 144
c. 883.212	ad. 2006 No. 159
c. 883.213	ad. 2006 No. 159
c. 883.221	ad. 2006 No. 159
c. 883.222	ad. 2006 No. 159
c. 883.223	ad. 2006 No. 159
c. 883.224	ad. 2006 No. 159 rep. 2007 No. 257
c. 883.225	ad. 2006 No. 159
c. 883.226	ad. 2006 No. 159
c. 883.227	ad. 2006 No. 159
c. 883.228	ad. 2006 No. 159
c. 883.229	ad. 2006 No. 159
c. 883.230	ad. 2006 No. 159
c. 883.231	ad. 2006 No. 159
c. 883.311	ad. 2006 No. 159
c. 883.312	ad. 2006 No. 159
c. 883.321	ad. 2006 No. 159
c. 883.322	ad. 2006 No. 159
c. 883.323	ad. 2006 No. 159 rep. 2007 No. 257
c. 883.324	ad. 2006 No. 159

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 883.325	ad. 2006 No. 159
c. 883.326	ad. 2006 No. 159
c. 883.411	ad. 2006 No. 159
c. 883.511	ad. 2006 No. 159
c. 883.711	ad. 2006 No. 159
c. 883.712	ad. 2006 No. 159
Part 884	
Part 884	ad. Act No. 5, 2003
Note to Div. 884.1	am. 2009 No. 144
c. 884.211	ad. Act No. 5, 2003
c. 884.212	ad. Act No. 5, 2003 am. 2006 No. 10; 2009 No. 144
c. 884.213	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 884.221	ad. Act No. 5, 2003
c. 884.222	ad. Act No. 5, 2003 rs. 2009 No. 116
c. 884.223	ad. Act No. 5, 2003 rs. 2006 No. 10 rep. 2009 No. 116
c. 884.224	ad. Act No. 5, 2003 rs. 2006 No. 10 am. 2007 No. 314
c. 884.225	ad. Act No. 5, 2003
c. 884.226	ad. Act No. 5, 2003 rs. 2006 No. 10 am. 2007 No. 314
c. 884.227	ad. Act No. 5, 2003 rs. 2006 No. 10
c. 884.228	ad. Act No. 5, 2003
c. 884.229	ad. Act No. 5, 2003
c. 884.230	ad. 2005 No. 134
c. 884.311	ad. Act No. 5, 2003
c. 884.312	ad. Act No. 5, 2003 rs. 2009 No. 116
c. 884.321	ad. Act No. 5, 2003 rs. 2004 No. 93
c. 884.322	ad. Act No. 5, 2003 rs. 2004 No. 93 am. 2009 No. 116
c. 884.322A	ad. 2004 No. 93

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 884.323	ad. Act No. 5, 2003 rs. 2004 No. 93; 2006 No. 10 am. 2007 No. 314
c. 884.324	ad. Act No. 5, 2003
c. 884.325	ad. Act No. 5, 2003
c. 884.326	ad. Act No. 5, 2003 rs. 2004 No. 93
c. 884.327	ad. 2004 No. 93
c. 884.328	ad. 2005 No. 134
c. 884.411	ad. Act No. 5, 2003 am. 2004 No. 93
c. 884.412	ad. 2004 No. 93
c. 884.511	ad. Act No. 5, 2003 am. 2004 No. 93
c. 884.512	ad. 2004 No. 93
c. 884.711	ad. Act No. 5, 2003 rs. 2005 No. 134
c. 884.712	ad. 2005 No. 134
Part 885	
Part 885	ad. 2007 No. 257
c. 885.111	ad. 2007 No. 257
Note 1 to c. 885.111	rs. 2009 No. 84
Note to Div. 885.2	am. 2009 No. 144
c. 885.211	ad. 2007 No. 257 am. 2009 No. 84
c. 885.212	ad. 2007 No. 257
c. 885.213	ad. 2007 No. 257 am. 2008 No. 56
c. 885.214	ad. 2007 No. 257
c. 885.215	ad. 2007 No. 257
c. 885.221	ad. 2007 No. 257
c. 885.222	ad. 2007 No. 257
c. 885.223	ad. 2007 No. 257
c. 885.224	ad. 2007 No. 257 rs. 2007 No. 314
c. 885.225	ad. 2007 No. 257
c. 885.226	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 885.227	ad. 2007 No. 257
c. 885.228	ad. 2007 No. 257 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 885.229	ad. 2007 No. 257
c. 885.230	ad. 2007 No. 257
Note to Div. 885.3	am. 2009 No. 144
c. 885.311	ad. 2007 No. 257 rs. 2009 No. 144
c. 885.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 885.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 885.323	ad. 2007 No. 257
c. 885.324	ad. 2007 No. 257
c. 885.325	ad. 2007 No. 257
c. 885.411	ad. 2007 No. 257
c. 885.511	ad. 2007 No. 257
c. 885.711	ad. 2007 No. 257
c. 885.712	ad. 2007 No. 257
Part 886	
Part 886	ad. 2007 No. 257
c. 886.111	ad. 2007 No. 257
Note 1 to c. 886.111	rs. 2009 No. 84
Note to Div. 886.2	am. 2009 No. 144
c. 886.211	ad. 2007 No. 257 am. 2009 No. 84
c. 886.212	ad. 2007 No. 257
c. 886.213	ad. 2007 No. 257 am. 2008 No. 56
c. 886.214	ad. 2007 No. 257
c. 886.215	ad. 2007 No. 257
c. 886.221	ad. 2007 No. 257
c. 886.222	ad. 2007 No. 257 am. 2009 No. 144
c. 886.223	ad. 2007 No. 257
c. 886.224	ad. 2007 No. 257
c. 886.225	ad. 2007 No. 257 rs. 2007 No. 314
c. 886.226	ad. 2007 No. 257
c. 886.227	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 886.228	ad. 2007 No. 257
c. 886.229	ad. 2007 No. 257 am. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 886.230	ad. 2007 No. 257
c. 886.231	ad. 2007 No. 257
Note to Div. 886.3	am. 2009 No. 144
c. 886.311	ad. 2007 No. 257 rs. 2009 No. 144
c. 886.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 886.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 886.323	ad. 2007 No. 257
c. 886.324	ad. 2007 No. 257
c. 886.325	ad. 2007 No. 257
c. 886.411	ad. 2007 No. 257
c. 886.511	ad. 2007 No. 257
c. 886.711	ad. 2007 No. 257
c. 886.712	ad. 2007 No. 257
Part 887	
Part 887	ad. 2007 No. 257
c. 887.111	ad. 2007 No. 257
Note to Div. 887.2	am. 2009 No. 144
c. 887.211	ad. 2007 No. 257
c. 887.212	ad. 2007 No. 257
c. 887.213	ad. 2007 No. 257
c. 887.221	ad. 2007 No. 257 am. 2008 No. 56
c. 887.222	ad. 2007 No. 257 am. 2008 No. 56
c. 887.223	ad. 2007 No. 257 rs. 2007 No. 314
c. 887.224	ad. 2007 No. 257
c. 887.225	ad. 2007 No. 257 am. 2007 No. 314; 2009 No. 144
c. 887.226	ad. 2007 No. 257
c. 887.227	ad. 2007 No. 257 am. 2009 No. 144
c. 887.228	ad. 2007 No. 257
c. 887.229	ad. 2007 No. 257
Note to Div. 887.3	am. 2009 No. 144
c. 887.311	ad. 2007 No. 257 rs. 2009 No. 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 887.312	ad. 2008 No. 56 rep. 2009 No. 144
c. 887.321	ad. 2007 No. 257 rs. 2009 No. 144
c. 887.322	ad. 2007 No. 257 rs. 2007 No. 314
c. 887.323	ad. 2007 No. 257
c. 887.324	ad. 2007 No. 257
c. 887.325	ad. 2007 No. 257
c. 887.411	ad. 2007 No. 257
c. 887.511	ad. 2007 No. 257
c. 887.711	ad. 2007 No. 257
c. 887.712	ad. 2007 No. 257
Part 890	
Part 890	ad. 2002 No. 348
Note 3 to Div. 890.1	ad. 2002 No. 348 rs. 2003 No. 94
Note 4 to Div. 890.1	ad. 2003 No. 94
c. 890.211	ad. 2002 No. 348
c. 890.212	ad. 2002 No. 348 rs. 2008 No. 166 am. 2009 No. 144
c. 890.213	ad. 2002 No. 348 am. 2003 No. 94
c. 890.214	ad. 2002 No. 348 am. 2003 No. 94 rs. 2008 No. 166 am. 2009 No. 144
c. 890.215	ad. 2002 No. 348 am. 2009 No. 144
c. 890.216	ad. 2002 No. 348 am. 2009 No. 144
c. 890.217	ad. 2002 No. 348
c. 890.221	ad. 2002 No. 348
c. 890.222	ad. 2002 No. 348 rs. 2007 No. 314
c. 890.223	ad. 2002 No. 348 am. 2007 No. 314
c. 890.224	ad. 2002 No. 348
c. 890.225	ad. 2005 No. 134
c. 890.311	ad. 2002 No. 348
c. 890.321	ad. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 890.322	ad. 2002 No. 348 am. 2007 No. 314
c. 890.323	ad. 2002 No. 348
c. 890.324	ad. 2005 No. 134
c. 890.411	ad. 2002 No. 348
c. 890.511	ad. 2002 No. 348
c. 890.611	ad. 2002 No. 348
c. 890.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 890.712	ad. 2005 No. 134
Part 891	
Part 891	ad. 2002 No. 348
c. 891.111	ad. 2002 No. 348
Note 3 to c. 891.111	ad. 2003 No. 94
c. 891.211	ad. 2002 No. 348 am. 2009 No. 144
c. 891.212	ad. 2002 No. 348
c. 891.213	ad. 2002 No. 348
c. 891.221	ad. 2002 No. 348
c. 891.222	ad. 2002 No. 348 am. 2009 No. 144
c. 891.223	ad. 2002 No. 348 rs. 2007 No. 314
c. 891.224	ad. 2002 No. 348 am. 2007 No. 314
c. 891.225	ad. 2002 No. 348
c. 891.226	ad. 2005 No. 134
c. 891.311	ad. 2002 No. 348
c. 891.321	ad. 2002 No. 348
c. 891.322	ad. 2002 No. 348 am. 2007 No. 314
c. 891.323	ad. 2002 No. 348 rs. 2007 No. 314
c. 891.324	ad. 2005 No. 134
c. 891.411	ad. 2002 No. 348
c. 891.511	ad. 2002 No. 348
c. 891.611	ad. 2002 No. 348
c. 891.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 891.712	ad. 2005 No. 134

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 892	
Part 892	ad. 2002 No. 348
Note 3 to Div. 892.1	ad. 2002 No. 348 rs. 2003 No. 94
Note 4 to Div. 892.1	ad. 2003 No. 94
c. 892.211	ad. 2002 No. 348
c. 892.212	ad. 2002 No. 348 am. 2003 No. 94; 2008 No. 166; 2009 No. 144
c. 892.213	ad. 2002 No. 348 am. 2003 No. 94 rs. 2006 No. 123
c. 892.214	ad. 2002 No. 348 am. 2009 No. 144
c. 892.215	ad. 2002 No. 348 am. 2004 No. 131 rs. 2008 No. 166 am. 2009 No. 144
c. 892.216	ad. 2004 No. 131 rs. 2006 No. 250
c. 892.216A	ad. 2006 No. 250
c. 892.217	ad. 2004 No. 131
c. 892.221	ad. 2002 No. 348
c. 892.222	ad. 2002 No. 348 rs. 2008 No. 166
c. 892.223	ad. 2002 No. 348 rs. 2007 No. 314
c. 892.224	ad. 2002 No. 348 am. 2004 No. 131; 2007 No. 314
c. 892.225	ad. 2002 No. 348
c. 892.226	ad. 2005 No. 134
c. 892.311	ad. 2002 No. 348
c. 892.312	ad. 2004 No. 131
c. 892.321	ad. 2002 No. 348
c. 892.322	ad. 2002 No. 348 am. 2004 No. 131; 2007 No. 314
c. 892.323	ad. 2002 No. 348
c. 892.324	ad. 2005 No. 134
c. 892.411	ad. 2002 No. 348 rs. 2004 No. 131
c. 892.412	ad. 2004 No. 131
c. 892.511	ad. 2002 No. 348
c. 892.611	ad. 2002 No. 348

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 892.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 892.712	ad. 2005 No. 134
Part 893	
Part 893	ad. 2002 No. 348
c. 893.111	ad. 2002 No. 348
Note 3 to c. 893.111	ad. 2003 No. 94
c. 893.211	ad. 2002 No. 348 am. 2009 No. 144
c. 893.212	ad. 2002 No. 348
c. 893.213	ad. 2002 No. 348
c. 893.221	ad. 2002 No. 348
c. 893.222	ad. 2002 No. 348 rs. 2008 No. 166
c. 893.223	ad. 2002 No. 348 am. 2009 No. 144
c. 893.224	ad. 2002 No. 348 rs. 2007 No. 314
c. 893.225	ad. 2002 No. 348 am. 2007 No. 314
c. 893.226	ad. 2002 No. 348
c. 893.227	ad. 2005 No. 134
c. 893.311	ad. 2002 No. 348
c. 893.321	ad. 2002 No. 348
c. 893.322	ad. 2002 No. 348 am. 2007 No. 314
c. 893.323	ad. 2002 No. 348
c. 893.324	ad. 2005 No. 134
c. 893.411	ad. 2002 No. 348
c. 893.511	ad. 2002 No. 348
c. 893.611	ad. 2002 No. 348
c. 893.711	ad. 2002 No. 348 rs. 2005 No. 134
c. 893.712	ad. 2005 No. 134
Part 956	
Part 956	ad. 1996 No. 75
c. 956.221	ad. 1996 No. 75 rs. 1998 No. 214
c. 956.222	ad. 1996 No. 75
c. 956.223	ad. 1996 No. 75
c. 956.224	ad. 1996 No. 75

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 956.321	ad. 1996 No. 75
c. 956.322	ad. 1996 No. 75
c. 956.323	ad. 1996 No. 75
c. 956.324	ad. 1996 No. 75
c. 956.411	ad. 1996 No. 75 rs. 1997 No. 216
c. 956.412	ad. 1997 No. 216
c. 956.511	ad. 1996 No. 75 rs. 2002 No. 86 am. 2005 No. 133; 2007 No. 191; 2008 No. 205
c. 956.512	ad. 2002 No. 86
c. 956.611	ad. 1996 No. 75
c. 956.711	ad. 1996 No. 75
Part 976	
Part 976	ad. 1996 No. 75
c. 976.221	ad. 1996 No. 75 rs. 1998 No. 214
c. 976.222	ad. 1996 No. 75
c. 976.223	ad. 1996 No. 75
c. 976.224	ad. 1996 No. 75
c. 976.411	ad. 1996 No. 75 rs. 1997 No. 216
c. 976.412	ad. 1997 No. 216
c. 976.511	ad. 1996 No. 75 rs. 2002 No. 86 am. 2007 No. 191
c. 976.512	ad. 2002 No. 86
c. 976.611	ad. 1996 No. 75
c. 976.711	ad. 1996 No. 75
Part 977	
Part 977	ad. 1996 No. 75
c. 977.221	ad. 1996 No. 75 rs. 1998 No. 214
c. 977.222	ad. 1996 No. 75
c. 977.223	ad. 1996 No. 75
c. 977.224	ad. 1996 No. 75
c. 977.321	ad. 1996 No. 75
c. 977.322	ad. 1996 No. 75
c. 977.323	ad. 1996 No. 75
c. 977.324	ad. 1996 No. 75

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
c. 977.411	ad. 1996 No. 75 rs. 1997 No. 216
c. 977.412	ad. 1997 No. 216
c. 977.511	ad. 1996 No. 75 rs. 2002 No. 86 am. 2005 No. 133; 2007 No. 191; 2008 No. 205
c. 977.512	ad. 2002 No. 86
c. 977.611	ad. 1996 No. 75
c. 977.711	ad. 1996 No. 75
Part 988	
Part 988	ad. 2007 No. 191
c. 988.111	ad. 2007 No. 191
c. 988.112	ad. 2007 No. 191
c. 988.113	ad. 2007 No. 191
Note to Div. 988.2	am. 2009 No. 144
c. 988.211	ad. 2007 No. 191
c. 988.221	ad. 2007 No. 191
c. 988.222	ad. 2007 No. 191 am. 2008 No. 205
c. 988.223	ad. 2007 No. 191
c. 988.224	ad. 2008 No. 205
c. 988.225	ad. 2008 No. 205
Note to Div. 988.3	am. 2009 No. 144
c. 988.321	ad. 2007 No. 191 am. 2009 No. 144
c. 988.322	ad. 2007 No. 191 am. 2008 No. 205
c. 988.323	ad. 2007 No. 191
c. 988.324	ad. 2008 No. 205
c. 988.411	ad. 2007 No. 191
c. 988.511	ad. 2007 No. 191
c. 988.512	ad. 2007 No. 191 am. 2009 No. 144
c. 988.611	ad. 2007 No. 191
c. 988.612	ad. 2007 No. 191
c. 988.711	ad. 2007 No. 191
Part 995	
Div. 995.1	rs. 2006 No. 159
Note to Div. 995.1	rep. 2006 No. 159
c. 995.111	ad. 2006 No. 159

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Note to Div. 995.2	rs. 2006 No. 159
c. 995.221	rs. 2006 No. 159
c. 995.222	ad. 2005 No. 134
Div. 995.3	rs. 2006 No. 159
Note to Div. 995.3	rep. 2006 No. 159
Subdiv. 995.31	ad. 2006 No. 159
Subdiv. 995.32	ad. 2006 No. 159
c. 995.321	ad. 2006 No. 159
c. 995.322	ad. 2006 No. 159
c. 995.323	ad. 2006 No. 159
c. 995.511	am. 2006 No. 159
Div. 995.6	rs. 1999 No. 81; 2006 No. 159
c. 995.611	rep. 1999 No. 81 ad. 2006 No. 159
c. 995.612	ad. 2006 No. 159
c. 995.711	am. 1999 No. 81 rs. 2005 No. 134
c. 995.712	ad. 2005 No. 134
Schedule 3	
Schedule 3	am. 1995 No. 268; 2002 No. 348; 2004 No. 390
Schedule 4	
Heading to Schedule 4	rs. 1996 No. 75
Schedule 4	am. 1994 Nos. 280 and 376; 1995 Nos. 117 and 268; 1996 No. 75; 1997 Nos. 109 and 354; 1999 Nos. 64, 68, 81 and 259; 2000 Nos. 62, 259 and 284; 2001 Nos. 27, 86 and 162; 2002 Nos. 10 and 86; 2003 No. 239; 2004 Nos. 93 and 131; 2005 Nos. 133, 240 and 275; 2006 No. 10; 2007 Nos. 166 and 314; 2008 Nos. 189, 205 and 237; 2009 No. 144
Schedule 5	
Heading to Schedule 5	rs. 1994 No. 376
Schedule 5	am. 1994 No. 376; 1995 Nos. 38 and 268; 1996 No. 75; 1999 Nos. 8 and 64; 2001 No. 162; 2004 No. 131; 2005 No. 240
Schedule 5A	
Schedule 5A	ad. 2001 No. 162 am. 2001 No. 285; 2002 Nos. 10, 86 and 213; 2003 No. 296; 2004 Nos. 21, 93 and 390; 2005 Nos. 133, 221 and 240; 2009 Nos. 116 and 144
Schedule 5B	
Schedule 5B	ad. 2003 No. 296 am. 2004 No. 93; 2005 No. 133; 2009 Nos. 116 and 144

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Schedule 6	
Schedule 6	am. 1994 No. 376; 1995 Nos. 38 and 117; 1996 No. 211; 1998 Nos. 104, 139 and 210; 1999 No. 81; 2006 No. 250; 2009 No. 144
Schedule 6A	
Schedule 6A.....	ad. 1999 No. 76 am. 1999 No. 259; 2003 Nos. 122 and 154; 2004 No. 131; 2005 Nos. 133 and 240; 2006 Nos. 159, 250 and 354; 2009 No. 144
Schedule 6B	
Schedule 6B.....	ad. 2007 No. 257 am. 2008 No. 56; 2009 No. 84; 2009 No. 144
Schedule 7	
Schedule 7	am. 1995 Nos. 38 and 268; 1997 No. 109; 1999 No. 220; 2002 No. 348; 2006 No. 123; 2008 No. 166; 2009 No. 144
Schedule 8	
Schedule 8	am. 1995 Nos. 38, 117 and 268; 1996 Nos. 75 and 211; 1998 No. 305; 1999 Nos. 58, 76, 81 and 220; 2000 Nos. 62 and 259; 2001 Nos. 142, 162 and 344; 2002 No. 86; 2003 Nos. 94, 154, 296 and 363; 2004 Nos. 131 and 390; 2005 Nos. 76, 133 and 240; 2006 Nos. 123 and 159; 2007 Nos. 166, 190, 191, 257 and 272; 2008 Nos. 56, 189 and 205; 2009 No. 144
Schedule 8A	
Schedule 8A.....	ad. 1997 No. 91 am. 1997 No. 137; 1998 No. 104 rs. 1998 No. 304 am. 2000 No. 62
Schedule 9	
Heading to Schedule 9.....	rs. 1994 No. 280; 2003 No. 239; 2008 No. 167
Schedule 9	am. 1994 No. 280; 1995 Nos. 38, 117, 268 and 411; 1996 No. 75; 1997 Nos. 64 and 263; 1998 Nos. 214 and 304; 1999 Nos. 68 and 81; 2000 No. 62; 2001 Nos. 86 and 162; 2002 Nos. 213 and 348; 2003 Nos. 94, 154, 239 and 363; 2004 Nos. 21 and 93; 2005 Nos. 133 and 134, 2007 No. 191; 2008 Nos. 167 and 205; 2009 No. 144
Schedule 10	
Heading to Schedule 10.....	rs. 1994 No. 280
Schedule 10	am. 1996 No. 75; 1999 No. 81
Form 1	1994 No. 268 am. 1996 No. 75; 1999 No. 81

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Form 2	1994 No. 268 am. 1996 No. 75; 1999 No. 81
Form 3	1994 No. 268 am. 1996 No. 75
Schedule 11	
Heading to Schedule 11	rs. 2000 No. 62
Schedule 11	ad. 1995 No. 3 am. 1997 No. 64; 1998 No. 104
Schedule 12	
Schedule 12	ad. 1996 No. 135 rs. 1998 No. 104; 2000 No. 62; 2002 No. 86; 2004 No. 191; 2006 No. 123; 2008 No. 237

Note 2

Migration Amendment Regulations 2009 (No. 5) (2009 No. 115)

The following amendments commence on 14 September 2009:

Schedule 1**[1] Regulation 1.03, definition of *approved professional development sponsor***

omit

[2] Regulation 1.03, after definition of *prescribed form*

insert

professional development sponsor means a person who:

- (a) is an approved sponsor; and
- (b) is approved as a sponsor in relation to the professional development sponsor class.

Note 1 ***Approved sponsor*** is defined in subsection 5 (1) of the Act. A person is no longer an approved sponsor in relation to a class of sponsor if the person's approval to be a sponsor has been cancelled under section 140M of the Act, or has otherwise ceased to have effect under section 140G of the Act.

Note 2 Different classes of sponsor, in relation to which a person may be approved as a sponsor, are prescribed under subsection 140E (2) of the Act. See regulation 2.58.

[3] Regulation 1.03, after definition of *spouse*

insert

standard business sponsor means a person:

- (a) who is an approved sponsor; and
- (b) who is approved as a sponsor in relation to the standard business sponsor class.

Note 2

Note 1 **Approved sponsor** is defined in subsection 5 (1) of the Act. A person is no longer an approved sponsor in relation to a class of sponsor if the person's approval to be a sponsor has been cancelled under section 140M of the Act, or has otherwise ceased to have effect under section 140G of the Act.

Note 2 Different classes of sponsor, in relation to which a person may be approved as a sponsor, are prescribed under subsection 140E (2) of the Act. See regulation 2.58.

Note 3 A person who, immediately before 14 September 2009, was a standard business sponsor or an approved sponsor (other than an approved professional development sponsor), is taken to be approved as a sponsor in relation to the standard business sponsor class under section 140E of the Act. The terms specified in the person's approval, immediately before 14 September 2009, continue to apply. See item 45 of Schedule 1 to the *Migration Legislation Amendment (Worker Protection) Act 2008*.

[4] Division 1.4, heading

substitute

**Division 1.4 Sponsorship not applicable to
Division 3A of Part 2 of the Act**

[5] Regulation 1.20, heading

substitute

1.20 Sponsorship undertakings

[6] Division 1.4A

omit

[7] Division 1.4B, heading

substitute

**Division 1.4B Limitation on certain sponsorships
under Division 1.4**

[8] Divisions 1.4C and 1.4D*omit***[9] After Part 2***insert***Part 2A Sponsorship applicable to
Division 3A of Part 2 of the Act****Division 2.11 Introductory****2.56 Application**

For section 140A of the Act, Division 3A of Part 2 of the Act applies to the following kinds of visa:

- (a) the Subclass 457 (Business (Long Stay)) visa;
- (b) the Subclass 470 (Professional Development) visa.

2.57 Interpretation

- (1) In this Part:

ASCO means the Australian Standard Classification of Occupations.

associated entity has the same meaning as in section 50AAA of the *Corporations Act 2001*.

Australian organisation means a body corporate or an unincorporated association (other than an individual or a sole trader) that is lawfully established in Australia.

competent authority means a Department or regulatory authority that administers or enforces a law that is alleged to have been contravened.

government agency means an agency of the Commonwealth or of a State or Territory.

Note 2

officer:

- (a) for a corporation — has the same meaning as in section 9 of the *Corporations Act 2001*; and
- (b) for an entity that is neither an individual nor a corporation — has the same meaning as in section 9 of the *Corporations Act 2001*.

overseas employer, in relation to a person who applies, or proposes to apply, for a Sponsored Training (Temporary) (Class UV) visa, means:

- (a) a body corporate or an unincorporated association (other than an individual or sole trader) that:
 - (i) conducts activities under the auspices of the government of a foreign country or a province, territory or state of a foreign country; and
 - (ii) has agreed to the professional development sponsor, or the proposed professional development sponsor, lodging a visa application on behalf of the person; or
- (b) a multilateral agency that:
 - (i) is operating; and
 - (ii) has operated for a continuous period of 1 year before the date of the application; and
 - (iii) has agreed to the professional development sponsor, or the proposed professional development sponsor, lodging a visa application on behalf of the person; or
- (c) a registered business that:
 - (i) is conducted by a body corporate or unincorporated association (other than an individual or sole trader) outside Australia; and
 - (ii) is actively and lawfully operating outside Australia; and
 - (iii) has actively and lawfully operated outside Australia for a continuous period of 1 year before the date of application; and
 - (iv) employs the person.

participant costs, for a primary sponsored person in a professional development program conducted by a professional development sponsor, means the costs of:

- (a) the primary sponsored person's travel and entry to Australia; and
- (b) the primary sponsored person's tuition for the professional development program; and
- (c) the primary sponsored person's accommodation in Australia; and
- (d) the primary sponsored person's living expenses in Australia; and
- (e) the primary sponsored person's health insurance in Australia; and
- (f) the primary sponsored person's return travel from Australia.

primary sponsored person:

- (a) in relation to a standard business sponsor or a former standard business sponsor — means:
 - (i) a person:
 - (A) who holds a Subclass 457 (Business (Long Stay)) visa; and
 - (B) for whom the last approved nomination was made by the standard business sponsor or the former standard business sponsor; or
 - (ii) a person:
 - (A) who is in the migration zone; and
 - (B) who does not hold a substantive visa; and
 - (C) whose last substantive visa was a Subclass 457 (Business (Long Stay)) visa; and
 - (D) for whom the last approved nomination was made by the standard business sponsor or the former standard business sponsor; or
- (b) in relation to a party to a work agreement or a former party to a work agreement (other than a Minister) — means:
 - (i) a person:
 - (A) who holds a Subclass 457 (Business (Long Stay)) visa; and

Note 2

- (B) for whom the last approved nomination was made by the party to a work agreement or the former party to a work agreement; or
- (ii) a person:
 - (A) who is in the migration zone; and
 - (B) who does not hold a substantive visa; and
 - (C) whose last substantive visa was a Subclass 457 (Business (Long Stay)) visa; and
 - (D) for whom the last approved nomination was made by the party to the work agreement or the former party to the work agreement; or
- (c) in relation to a professional development sponsor or a former professional development sponsor — means:
 - (i) a person:
 - (A) who holds a Subclass 470 (Professional Development) visa; and
 - (B) who satisfied the criteria for the grant of the visa on the basis of the professional development sponsor having agreed, in writing, to be the professional development sponsor for the person; or
 - (ii) a person:
 - (A) who is in the migration zone; and
 - (B) who does not hold a substantive visa; and
 - (C) whose last substantive visa was a Subclass 470 (Professional Development) visa; and
 - (D) who satisfied the criteria for the grant of the visa on the basis of the professional development sponsor having agreed, in writing, to be the professional development sponsor for the person.

professional development agreement means an agreement that meets the requirements mentioned in subregulation 2.60 (2).

professional development program means a program that meets the requirements mentioned in subregulation 2.60 (3).

related body corporate has the same meaning as in section 50 of the *Corporations Act 2001*.

secondary sponsored person:

- (a) in relation to a standard business sponsor or a former standard business sponsor — means:
- (i) a person:
 - (A) who holds a Subclass 457 (Business (Long Stay)) visa; and
 - (B) who was granted the visa on the basis of having satisfied the secondary criteria for the grant of the visa; and
 - (C) in relation to whom the standard business sponsor or former standard business sponsor was the last person:
 - (I) to have included the person in an approved nomination; or
 - (II) to have agreed in writing to the person being a secondary sponsored person in relation to the standard business sponsor or former standard business sponsor; or
 - (ii) a person:
 - (A) who holds a Subclass 457 (Business (Long Stay)) visa that was granted on the basis of being granted the visa at the time of the birth of the person, under section 78 of the Act; and
 - (B) who is a member of the family unit of a primary sponsored person whose last approved nomination, made for the primary sponsored person, was made by the standard business sponsor or former standard business sponsor; or
 - (iii) a person:
 - (A) who is in the migration zone; and
 - (B) who does not hold a substantive visa; and
 - (C) whose last substantive visa was a Subclass 457 (Business (Long Stay)) visa that was granted on the basis of satisfying the

Note 2

- secondary criteria for the grant of the visa;
and
- (D) in relation to whom the standard business sponsor or former standard business sponsor was the last person:
- (I) to have included the person in an approved nomination; or
 - (II) to have agreed in writing to the person being a secondary sponsored person in relation to the standard business sponsor or former standard business sponsor; or
- (b) in relation to a party to a work agreement or a former party to a work agreement (other than a Minister) — means:
- (i) a person:
 - (A) who holds a Subclass 457 (Business (Long Stay)) visa; and
 - (B) who was granted the visa on the basis of having satisfied the secondary criteria for the grant of the visa; and
 - (C) in relation to whom the party to the work agreement or former party to the work agreement was the last person:
 - (I) to have included the person in an approved nomination; or
 - (II) to have agreed in writing to the person being a secondary sponsored person in relation to the party to the work agreement or former party to the work agreement; or
 - (ii) a person:
 - (A) who holds a Subclass 457 (Business (Long Stay)) visa that was granted on the basis of being granted the visa at the time of the birth of the person, under section 78 of the Act; and

Note 2

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- (B) who is a member of the family unit of a primary sponsored person whose last approved nomination, made for the primary sponsored person, was made by the party to the work agreement or the former party to the work agreement; or
 - (iii) a person:
 - (A) who is in the migration zone; and
 - (B) who does not hold a substantive visa; and
 - (C) whose last substantive visa was a Subclass 457 (Business (Long Stay)) visa that was granted on the basis of satisfying the secondary criteria for the grant of the visa; and
 - (D) in relation to whom the party to the work agreement or former party to the work agreement was the last person:
 - (I) to have included the person in an approved nomination; or
 - (II) to have agreed in writing to the person being a secondary sponsored person in relation to the party to the work agreement or the former party to the work agreement.

Note **Approved sponsor** is defined in subsection 5 (1) of the Act.

- (2) In this Part:
 - (a) a person is **associated with** an applicant that is a corporation if the person is an officer of the corporation, a related body corporate or an associated entity; and
 - (b) a person is **associated with** an applicant that is a partnership if the person is a partner of the partnership; and
 - (c) a person is **associated with** an applicant that is an unincorporated association if the person is a member of the association's committee of management; and
 - (d) a person is **associated with** an applicant that is an entity not mentioned in paragraphs (a), (b) and (c) if the person is an officer of the entity.

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- (3) In this Part, ***adverse information*** means any adverse information relevant to an applicant's suitability as a sponsor in relation to the class of sponsor that the applicant has applied for, and includes information that:
- (a) the applicant, or a person associated with the applicant:
 - (i) has been found guilty by a court of an offence under a Commonwealth, State or Territory law; or
 - (ii) has been found, by a competent authority, to have acted in contravention of a Commonwealth, State or Territory law; or
 - (iii) has been the subject of administrative action (including being issued with a warning), by a competent authority, for a possible contravention of a Commonwealth, State or Territory law; or
 - (iv) is under investigation, subject to disciplinary action or subject to legal proceedings in relation to an alleged contravention of a Commonwealth, State or Territory law; or
 - (v) has become insolvent within the meaning of subsections 5 (2) and (3) of the *Bankruptcy Act 1966* and section 95A of the *Corporations Act 2001*; and
 - (b) the law mentioned in subparagraphs (a) (i) to (iv) relates to one or more of the following matters:
 - (i) discrimination;
 - (ii) immigration;
 - (iii) industrial relations;
 - (iv) occupational health and safety;
 - (v) people smuggling and related offences;
 - (vi) slavery, sexual servitude and deceptive recruiting;
 - (vii) taxation;
 - (viii) terrorism;
 - (ix) trafficking in persons and debt bondage; and
 - (c) the conviction, finding of non-compliance, administrative action, investigation, legal proceedings or insolvency occurred within the previous 3 years.

Division 2.12 **Classes of sponsor**

2.58 **Classes of sponsor**

For subsection 140E (2) of the Act, the following are classes of sponsor in relation to which a person may be approved as a sponsor:

- (a) a standard business sponsor;
- (b) a professional development sponsor.

Note A party to a work agreement is not required to apply for approval as a sponsor, and is not required to be approved as a sponsor in relation to a class of sponsor.

Division 2.13 **Criteria for approval of sponsor**

Note A party to a work agreement is not required to apply for approval as a sponsor, and is not required to be approved as a sponsor in relation to a class of sponsor.

2.59 **Criteria for approval as a standard business sponsor**

For subsection 140E (1) of the Act, the criterion that must be satisfied for the Minister to approve an application by a person (the *applicant*) for approval as a standard business sponsor is that the Minister is satisfied that:

- (a) the applicant has applied for approval as a standard business sponsor in accordance with the process set out in Division 2.14; and
- (b) the applicant:
 - (i) is not a standard business sponsor; or
 - (ii) is a standard business sponsor because of the application of subclause 45 (2) of Part 2 of Schedule 1 to the *Migration Legislation Amendment (Worker Protection) Act 2008*; and
- (c) the applicant:
 - (i) is lawfully operating a business in Australia; or
 - (ii) is lawfully operating a business outside Australia; and

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- (d) if the applicant is lawfully operating a business in Australia, and has traded in Australia for 12 months or more — the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing made for this paragraph;
- (e) if the applicant is lawfully operating a business in Australia, and has traded in Australia for 12 months or less — the applicant has an auditable plan to meet the benchmarks specified in the instrument, in writing, made for paragraph (d);
- (f) the applicant has attested, in writing, that the applicant has a strong record of, or a demonstrated commitment to:
 - (i) employing local labour; and
 - (ii) non-discriminatory employment practices; and
- (g) either:
 - (i) there is no adverse information known to the Minister about the applicant or a person associated with the applicant; or
 - (ii) it is reasonable to disregard any adverse information known to the Minister about the applicant or a person associated with the applicant.

Note for subparagraph (b) (ii) A person approved as a standard business sponsor before 14 September 2009 can make a new application to become a standard business sponsor on or after 14 September 2009. A person approved as a standard business sponsor on or after 14 September 2009, and who has not ceased to be a standard business sponsor, can apply under section 140GA of the Act for a variation of the terms of approval as a sponsor to extend the duration of the sponsorship approval — see regulation 2.68.

Note for paragraph (g) The meanings of *associated with* and *adverse information* are explained in subregulations 2.57 (2) and (3).

2.60 Criteria for approval as a professional development sponsor

- (1) For subsection 140E (1) of the Act, the criterion that must be satisfied for the Minister to approve an application by a person for approval as a professional development sponsor is that the Minister is satisfied that:

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- (a) the applicant is an Australian organisation or a government agency; and
 - (b) the applicant:
 - (i) is a party to a professional development agreement that meets the requirements mentioned in subregulation (2); and
 - (ii) the agreement is in force at the time of the Minister's consideration of the application; and
 - (c) the applicant is offering to conduct a professional development program that satisfies the requirements mentioned in subregulation (3); and
 - (d) the applicant has demonstrated an overall capacity to conduct a professional development program involving primary sponsored persons; and
 - (e) the applicant:
 - (i) has the capacity to meet its financial commitments; and
 - (ii) has paid any security requested by an authorised officer under section 269 of the Act; and
 - (f) each of the parties to the professional development agreement has the capacity to meet its financial commitments; and
 - (g) if an overseas employer that is a party to a professional development agreement with the applicant has previously been required to comply with the immigration laws of Australia — the overseas employer has a satisfactory record of compliance; and
 - (h) either:
 - (i) there is no adverse information known to the Minister about the applicant or a person associated with the applicant; or
 - (ii) it is reasonable to disregard any adverse information known to the Minister about the applicant or a person associated with the applicant.

Note for paragraph (h) The meanings of ***associated with*** and ***adverse information*** are explained in subregulations 2.57 (2) and (3).

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- (2) A professional development agreement must meet the following requirements:
- (a) the parties to the agreement must include:
 - (i) a person (the *applicant*) intending to apply for approval as a professional development sponsor who is:
 - (A) an Australian organisation that has operated in Australia continuously for a period of 1 year immediately prior to the making of the agreement; or
 - (B) an Australian organisation that has been approved by the Minister for the purpose of this sub-subparagraph; or
 - (C) a government agency; and
 - (ii) an overseas employer of a person intended to be a primary sponsored person;
 - (b) the applicant under subparagraph (a) (i) must be an Australian organisation or a government agency;
 - (c) the agreement must specify the person or persons responsible for paying the participant costs of a primary sponsored person;
 - (d) the agreement must not require a primary sponsored person to pay the costs of the tuition of a professional development program;
 - (e) the agreement must specify:
 - (i) particulars of the professional development program to be provided by the professional development sponsor; and
 - (ii) particulars of any other matter to be provided by the professional development sponsor; and
 - (iii) the roles of each of the parties to the agreement; and
 - (iv) the duration of the agreement; and
 - (v) particulars of the conflict resolution arrangements under the agreement, including arrangements for the mediation of disputes; and
 - (vi) particulars of any arrangements for the subcontracting of the delivery of any part of the professional development program; and

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- (vii) particulars of the arrangements for insurance relating to the professional development sponsor; and
 - (viii) particulars of the arrangements for the recovery of costs if the professional development sponsor, or any other provider of the professional development program, ceases operations for any reason; and
 - (ix) a description of the characteristics of the person or persons the overseas employer proposes to select as proposed primary sponsored persons, and how the proposed primary sponsored persons will be selected;
- (f) if it is intended that a primary sponsored person will pay some of their participation costs — the agreement must contain:
 - (i) a statement that the proposed primary sponsored person will be expected to meet the costs specified in the agreement; and
 - (ii) a declaration from the overseas employer that only an employee that the employer is satisfied is able to meet the costs specified in the agreement will be selected as a primary sponsored person;
 - (g) the agreement must be signed and dated by an authorised representative of each party to the agreement.
- (3) A professional development program must meet the following requirements:
 - (a) the program must be relevant to, and consistent with, the development of the skills of the managers or professionals, or both, that it is proposed will participate in the program;
 - (b) the program must provide skills and expertise relevant to, and consistent with, the business and business background of a proposed primary sponsored person's overseas employer;
 - (c) the duration of the program must not exceed:
 - (i) 18 months; or
 - (ii) if the Secretary is satisfied that exceptional circumstances exist that warrant an extension of the

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- period of the program — a longer period approved by the Secretary;
- (d) the primary form of the program must be the provision of face-to-face teaching in a classroom or similar environment;
 - (e) the primary content of the program must not be a practical component;
 - (f) any practical component of the program:
 - (i) must not exceed 7 hours in any day and 35 hours in any week; and
 - (ii) must not adversely affect the Australian labour market; and
 - (iii) must require or involve the payment of remuneration to a proposed primary sponsored person only by the proposed primary sponsored person's overseas employer.

Division 2.14 Application for approval as a sponsor

2.61 Application for approval as a sponsor

- (1) For subsection 140F (1) of the Act, a person may apply to the Minister for approval as a sponsor in relation to a class of sponsor in accordance with the process set out in this Division.

Note A party to a work agreement is not required to apply for approval as a sponsor, and is not required to apply for approval as a sponsor in relation to a class of sponsor.

- (2) A person mentioned in an item of the table must:
 - (a) make the application in accordance with the approved form mentioned in the item; and
 - (b) pay the application fee (if any) mentioned in the item.

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Item	If the person makes an application for approval as ...	the approved form is ...	and the application fee is ...
1	(a) a standard business sponsor; and (b) operates a business in Australia	1196S; or 1196 (Internet)	\$285
2	(a) a standard business sponsor; and (b) does not operate a business in Australia	1196S	\$285
3	(a) a professional development sponsor; and (b) is a Commonwealth agency	1226	nil
4	(a) a professional development sponsor; and (b) is not a Commonwealth agency	1226	\$1 145

2.62 Notice of decision

- (1) The Minister must notify an applicant for approval as a sponsor, in writing, of a decision under subsection 140E (1) of the Act:
 - (a) within a reasonable period after making the decision; and
 - (b) by attaching a written copy of the approval or refusal; and
 - (c) if the decision is a refusal — by attaching a statement of reasons for the refusal.
- (2) If the application was made using approved form 1196 (Internet), the Minister may provide the notification to the applicant in an electronic form.

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Division 2.15 Terms of approval of sponsorship

2.63 Standard business sponsor

- (1) For subsection 140G (2) of the Act, a kind of term of an approval as a standard business sponsor is the duration of the approval.
- (2) The duration of the approval may be specified:
 - (a) as a period of time; or
 - (b) as ending on a particular date; or
 - (c) as ending on the occurrence of a particular event.

2.64 Professional development sponsor

- (1) For subsection 140G (3) of the Act, the terms of approval as a professional development sponsor are prescribed in this regulation.
- (2) An approval as a professional development sponsor has effect only in relation to:
 - (a) the professional development program specified in the application for approval, as varied from time to time by agreement between the professional development sponsor and the Secretary; and
 - (b) the professional development agreement or agreements specified in the application for approval; and
 - (c) the overseas employer or employers specified in the application for approval.
- (3) An approval as a professional development sponsor ceases on the earlier of:
 - (a) 3 years after the day on which the approval is granted; and
 - (b) the day on which the professional development agreement specified in the application for approval ends.

Division 2.16 Variation of terms of approval of sponsorship — standard business sponsor

2.65 Application

This Division applies to a person who is a standard business sponsor.

2.66 Process to apply for variation of terms of approval

- (1) For subsection 140GA (1) of the Act, a person may apply to the Minister for a variation of a term of an approval as a standard business sponsor in accordance with the process set out in this regulation.
- (2) The person must make the application in accordance with approved form 1196S or approved form 1196 (Internet).
- (3) However, if the person does not operate a business in Australia, the person must make the application in accordance with approved form 1196S.
- (4) The application must be accompanied by a fee of \$285.

2.67 Terms of approval that may be varied

For paragraph 140GA (2) (a) of the Act, a term of approval as a standard business sponsor that may be varied is the duration of the approval.

2.68 Criteria for variation of terms of approval

For paragraph 140GA (2) (b) of the Act, the criterion that must be satisfied for the Minister to approve an application for a variation of a term of approval as a standard business sponsor is that the Minister is satisfied that:

- (a) the applicant has applied for the variation in accordance with the process set out in regulation 2.66; and
- (b) the applicant is a standard business sponsor; and

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- (c) the approval the applicant is seeking to vary was granted on or after 14 September 2009; and
- (d) the applicant:
 - (i) is lawfully operating a business in Australia; or
 - (ii) is lawfully operating a business outside Australia; and
- (e) if the applicant is lawfully operating a business in Australia, and has traded in Australia for 12 months or more - the applicant meets the benchmarks for the training of Australian citizens and Australian permanent residents specified in an instrument in writing made for this paragraph; and
- (f) if the applicant is lawfully operating a business in Australia, and has traded in Australia for 12 months or less - the applicant has an auditable plan to meet the benchmarks specified in the instrument in writing made for paragraph (e); and
- (g) the applicant has attested in writing that the applicant has a strong record of, or a demonstrated commitment to:
 - (i) employing local labour; and
 - (ii) non-discriminatory employment practices; and
- (h) either:
 - (i) there is no adverse information known to the Minister about the applicant or a person associated with the applicant; or
 - (ii) it is reasonable to disregard any adverse information known to the Minister about the applicant or a person associated with the applicant.

Note for paragraph (h) The meanings of **adverse information** and **associated with** are explained in subregulations 2.57 (2) and (3).

2.69 Notice of decision

- (1) The Minister must notify an applicant for a variation of a term of an approval, in writing, of a decision under subsection 140GA (2) of the Act:
 - (a) within a reasonable period after making the decision; and

- (b) by attaching a written copy of the decision to vary or not to vary the term of the approval; and
 - (c) by if the decision is not to vary the term of the approval — attaching a statement of reasons for the decision.
- (2) If the application was made using approved form 1196 (Internet), the Minister may provide the notification to the applicant in an electronic form.

Division 2.17 Nominations

2.70 Application

This Division applies to a person who is:

- (a) a standard business sponsor; or
- (b) a party to a work agreement (other than a Minister).

2.71 Prescribed kind of visa

For paragraph 140GB (1) (a) of the Act, the kind of visa for an applicant, or proposed applicant, is a Subclass 457 (Business (Long Stay)) visa.

2.72 Criteria for approval of nomination — standard business sponsor or party to work agreement

- (1) For subsection 140GB (2) of the Act, the criterion that must be satisfied for the Minister to approve a nomination by a standard business sponsor or a party to a work agreement (other than a Minister) is that the Minister is satisfied that:
- (a) the person has made the nomination in accordance with the process set out in regulation 2.73; and
 - (b) the person is a standard business sponsor or a party to a work agreement; and
 - (c) if the person is a standard business sponsor:
 - (i) the nominated occupation corresponds to an occupation specified in an instrument in writing made for this subparagraph; and

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- (ii) if required by the instrument mentioned in subparagraph (i) — the nomination of an occupation mentioned in the instrument is supported, in writing to the Minister, by an organisation specified in an instrument in writing made for this subparagraph; and
- (iii) the terms and conditions of employment will be no less favourable than those that are provided, or would be provided, to an Australian citizen or an Australian permanent resident for performing work in an equivalent position in the person's workplace; and
- (d) if the person is a party to a work agreement (other than a Minister) — the nominated occupation is specified in the work agreement as an occupation that the person may nominate for an applicant or a proposed applicant; and
- (e) if the person proposes to nominate a holder of a Subclass 457 (Business (Long Stay)) visa (the ***primary holder of the visa***) — the person has listed on the nomination each other holder of a visa of that kind who was granted the visa on the basis of being:
 - (i) a member of the family unit of the primary holder of the visa; or
 - (ii) the interdependent partner of the primary holder of the visa; or
 - (iii) a dependent child of the interdependent partner of the primary holder of the visa; and
- (f) the person has provided the following information as part of the nomination:
 - (i) if there is a 6-digit ASCO code for the nominated occupation — the 6-digit ASCO code;
 - (ii) if there is no 6-digit ASCO code for the occupation, and the person is a standard business sponsor — the name of the occupation as it appears in the instrument in writing made for the purpose of subparagraph (c) (i);

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- (iii) if there is no 6-digit ASCO code for the occupation and the person is a party to a work agreement — the name of the occupation as it appears in the work agreement;
- (iv) the location or locations at which the nominated occupation is to be carried out;
- (v) information that identifies the applicant or the proposed applicant for the nominated occupation;
- (g) if the person is a standard business sponsor — the person has certified as part of the nomination, in writing, that:
 - (i) the duties of the position include a significant majority of the duties of the nominated occupation listed in the ASCO; and
 - (ii) if the nominated occupation is an occupation other than an occupation mentioned in an instrument in writing made for the purpose of this subparagraph — the position is a position with a business, or an associated entity, of the person; and
 - (iii) the qualifications and experience of the applicant or proposed applicant in relation to the nominated occupation is commensurate with the qualifications and experience specified:
 - (A) for the occupation in the ASCO; or
 - (B) if there is no ASCO code for the nominated occupation — for the occupation in the instrument in writing made for the purpose of subparagraph (c) (i); and
- (h) if the person is a party to a work agreement — the person has certified as part of the nomination, in writing, that the qualifications and experience of the applicant or proposed applicant in relation to the nominated occupation is commensurate with the qualifications and experience specified for the occupation in the work agreement; and
- (i) either:
 - (i) there is no adverse information known to the Minister about the person or a person associated with the person; or

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- (ii) it is reasonable to disregard any adverse information known to the Minister about the person or a person associated with the person.

Note for paragraph (i) The meanings of **adverse information** and **associated with** are explained in subregulations 2.57 (2) and (3).

- (2) For paragraph (1) (e), the Minister may disregard the fact that 1 or more persons required to be listed on the nomination are not listed, if the Minister is satisfied it is reasonable in the circumstances to do so.

2.73 Process for nomination

- (1) For subsection 140GB (3) of the Act, the person may nominate a proposed occupation for an applicant, or proposed applicant, in accordance with the process set out in this regulation.
- (2) The person must make the nomination in accordance with approved form 1196N or approved form 1196 (Internet).
- (3) However, if the person does not operate a business in Australia, the person must make the application in accordance with approved form 1196N.
- (4) The person must provide, as part of the nomination:
 - (a) the information mentioned in paragraph 2.72 (1) (f); and
 - (b) if the person is a standard business sponsor — the certification mentioned in paragraph 2.72 (1) (g); and
 - (c) if the person is a party to a work agreement (other than a Minister) — the certification mentioned in paragraph 2.72 (1) (h).
- (5) The application must be accompanied by a fee of \$60.
- (6) The Minister may refund the fee if:
 - (a) both of the following apply:
 - (i) the tasks of the nominated occupation no longer correspond to the tasks of an occupation specified in the instrument in writing made for the purpose of subparagraph 2.72 (1) (c) (i);

- (ii) the person withdraws the nomination for that reason before a decision is made under section 140GA of the Act; or
- (b) both of the following apply:
 - (i) the nomination is approved under section 140GA of the Act;
 - (ii) after the Minister has approved the nomination, but before a visa is granted in relation to the approval, the tasks of the nominated occupation no longer correspond to the tasks of an occupation specified in the instrument in writing made for the purpose of subparagraph 2.72 (1) (c) (i).

2.74 Notice of decision

- (1) The Minister must notify an applicant for approval of a nomination, in writing, of a decision under subsection 140GB (2) of the Act:
 - (a) within a reasonable period after making the decision; and
 - (b) by attaching a written copy of the approval or refusal; and
 - (c) if the decision is a refusal — by attaching a statement of reasons for the refusal.
- (2) If the application was made using approved form 1196 (Internet), the Minister may provide the notification to the applicant in an electronic form.

2.75 Period of approval of nomination

An approval of a nomination ceases on the earliest of:

- (a) the day on which Immigration receives notification, in writing, of the withdrawal of the nomination by the person; and
- (b) 12 months after the day on which the nomination is approved; and
- (c) the day on which the applicant, or the proposed applicant, for the nominated occupation, is granted a Subclass 457 (Business (Long Stay)) visa; and

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- (d) if the approval of the nomination is given to a standard business sponsor — 3 months after the day on which the person's approval as a standard business sponsor ceases; and
- (e) if the approval of the nomination is given to a standard business sponsor, and the person's approval as a standard business sponsor is cancelled under subsection 140M (1) of the Act — the day on which the person's approval as a standard business sponsor is cancelled; and
- (f) if the approval of the nomination is given to a party to a work agreement (other than a Minister) — the day on which the work agreement ceases.

Division 2.18 Work agreements

2.76 Requirements

- (1) For section 140GC of the Act, and for the definition of *work agreement* in subsection 5 (1) of the Act, the requirements that a work agreement must satisfy are prescribed in this regulation.
- (2) A work agreement:
 - (a) must be between:
 - (i) the Commonwealth, as represented by the Minister, or by the Minister and 1 or more other Ministers; and
 - (ii) a person, an unincorporated association or a partnership in Australia; and
 - (b) must authorise the recruitment, employment, or engagement of services of a person who is intended to be employed or engaged as a holder of a Subclass 457 (Business (Long Stay)) visa; and
 - (c) must be in effect; and
 - (d) must not be an IASS agreement.

Division 2.19 Sponsorship obligations**2.77 Preliminary**

For subsection 140H (1) of the Act, each of the obligations mentioned in this Division is a sponsorship obligation that a person to whom the obligation applies must satisfy.

2.78 Obligation to cooperate with inspectors

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor; or
 - (b) a party to a work agreement (other than a Minister); or
 - (c) a professional development sponsor.
- (2) The person must cooperate with an inspector if:
 - (a) the inspector is appointed under section 140V of the Act; and
 - (b) the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act.
- (3) Without limiting subregulation (2), the person is taken not to have cooperated with an inspector if:
 - (a) the person hinders or obstructs an inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
 - (b) the person conceals, or attempts to conceal, from an inspector the location of a person, document or thing while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
 - (c) the person prevents, or attempts to prevent, another person from assisting an inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
 - (d) the person assaults an inspector or a person assisting the inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act; or
 - (e) the person intimidates or threatens, or attempts to intimidate or threaten, an inspector or a person assisting

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the inspector while the inspector is exercising powers under Subdivision F of Division 3A of Part 2 of the Act.

- (4) If the person is or was a standard business sponsor or a professional development sponsor, the obligation mentioned in subregulation (2):
 - (a) starts to apply on the day on which the person is approved as a sponsor under section 140E of the Act; and
 - (b) ends 5 years after the day on which the person ceases or ceased to be a sponsor.
- (5) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):
 - (a) starts to apply on the day on which the work agreement commences; and
 - (b) ends 5 years after the day on which the work agreement ceases or ceased.

2.79 Obligation to ensure equivalent terms and conditions of employment

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor of a primary sponsored person; or
 - (b) a party to a work agreement (other than a Minister) who is or was an approved sponsor of a primary sponsored person.
- (2) The person must ensure that the terms and conditions of employment provided to the primary sponsored person are no less favourable than the terms and conditions the person provides, or would provide, to:
 - (a) an Australian citizen; and
 - (b) an Australian permanent resident;to perform work in an equivalent position in the person's workplace.

- (3) For subregulation (2), the terms and conditions of employment are *no less favourable* if the terms and conditions are at or above the terms and conditions determined in accordance with the process set out by the Minister in an instrument in writing made for this subregulation.
- (4) The obligation mentioned in subregulation (2):
- (a) starts to apply on:
- (i) the day on which the Minister approves a nomination by the person of an occupation for the primary sponsored person; or
 - (ii) if the primary sponsored person does not hold a Subclass 457 (Business (Long Stay)) visa on the day the Minister approves the nomination - the day on which the primary sponsored person is granted a Subclass 457 (Business (Long Stay)) visa on the basis of an approved nomination by the person; and
- (b) ends on the earlier of:
- (i) the day on which the primary sponsored person is granted a further substantive visa that:
 - (A) is not a Subclass 457 (Business (Long Stay)) visa; and
 - (B) is in effect; and
 - (ii) the day on which the primary sponsored person ceases employment with the person.

2.80 Obligation to pay travel costs to enable sponsored persons to leave Australia

- (1) This regulation applies to a person who is or was:
- (a) a standard business sponsor of a primary sponsored person or a secondary sponsored person (if any); or
 - (b) a party to a work agreement (other than a Minister) who is or was an approved sponsor of a primary sponsored person or secondary sponsored person (if any).

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- (2) The person must pay the travel costs of the primary sponsored person or the secondary sponsored person:
 - (a) if the costs have been requested in writing by:
 - (i) the Minister on behalf of the primary sponsored person or the secondary sponsored person; or
 - (ii) the primary sponsored person; or
 - (iii) the primary sponsored person on behalf of the secondary sponsored person; or
 - (iv) the secondary sponsored person; or
 - (v) the secondary sponsored person on behalf of the primary sponsored person; and
 - (b) that have not already been paid in accordance with this regulation; and
 - (c) that are reasonable and necessary.
- (3) The request to pay travel costs must:
 - (a) specify the person or persons whose travel will be funded by the costs; and
 - (b) specify the country that the person, whose travel will be funded, holds a passport and will travel to; and
 - (c) if the person is a multiple passport holder — specify the country that the person holds a passport for and wants to travel to; and
 - (d) be made while the person whose travel will be funded is the holder of a Subclass 457 (Business (Long Stay)) visa.
- (4) Without limiting paragraph (2) (c), a person is taken to have paid reasonable and necessary costs if:
 - (a) the costs include the cost of travel from the primary sponsored person's usual place of residence in Australia to the place of departure from Australia; and
 - (b) the costs include the cost of travel from Australia to the country the person specifies in accordance with subregulation (3); and
 - (c) the costs are paid within 30 days of receiving the request for costs; and
 - (d) the costs are for economy class air travel or the equivalent of economy class air travel.

- (5) The obligation mentioned in subregulation (2):
- (a) starts to apply on:
 - (i) the day on which the Minister approves a nomination by the person of an occupation for the primary sponsored person; or
 - (ii) if the primary sponsored person does not hold a Subclass 457 (Business (Long Stay)) visa on the day the Minister approves the nomination – the day on which the primary sponsored person is granted a Subclass 457 (Business (Long Stay)) visa on the basis of an approved nomination by the person; and
 - (b) for a primary sponsored person — ends on the earlier of:
 - (i) the day on which the Minister approves a nomination under section 140GB of the Act by another standard business sponsor or party to a work agreement in relation to the primary sponsored person; and
 - (ii) the day on which the primary sponsored person is granted a further substantive visa that:
 - (A) is not a Subclass 457 (Business (Long Stay)) visa; and
 - (B) is in effect; and
 - (iii) the first day on which each of the following occur concurrently:
 - (A) the primary sponsored person has left Australia;
 - (B) the Subclass 457 (Business (Long Stay)) visa has ceased to be in effect;
 - (C) if the primary sponsored person held a Subclass 020 – Bridging B visa when the primary sponsored person left Australia, and the last substantive visa held by the primary sponsored person was a Subclass 457 (Business (Long Stay)) visa — the bridging visa has ceased to be in effect; and
 - (c) for a secondary sponsored person — ends on the earlier of:
 - (i) the day on which the Minister approves a nomination under section 140GB of the Act by

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- another standard business sponsor or party to a work agreement in relation to the primary sponsored person;
- (ii) the day on which the secondary sponsored person is granted a further substantive visa that:
 - (A) is not a Subclass 457 (Business (Long Stay)) visa; and
 - (B) is in effect; and
 - (iii) the first day on which each of the following occur concurrently:
 - (A) the secondary sponsored person has left Australia; and
 - (B) the Subclass 457 (Business (Long Stay)) visa has ceased to be in effect; and
 - (C) if the secondary sponsored person held a Subclass 020 — Bridging B visa when the secondary sponsored person left Australia, and the last substantive visa held by the secondary sponsored person was a Subclass 457 (Business (Long Stay)) visa — the bridging visa has ceased to be in effect.

2.81 Obligation to pay costs incurred by the Commonwealth to locate and remove unlawful non-citizen

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor of a primary sponsored person or a secondary sponsored person (if any); or
 - (b) a party to a work agreement (other than a Minister) who is or was an approved sponsor of a primary sponsored person or a secondary sponsored person; or
 - (c) a professional development sponsor of a primary sponsored person.

Note There are no secondary sponsored persons in relation to professional development sponsors.

- (2) The person must pay costs incurred by the Commonwealth:
- (a) if the costs were incurred by the Commonwealth in taking either or both of the following actions in relation to the primary sponsored person or secondary sponsored person:
 - (i) locating, as an unlawful non-citizen, the primary sponsored person or the secondary sponsored person;
 - (ii) removing, as an unlawful non-citizen, the primary sponsored person or the secondary sponsored person from Australia; and
 - (b) if the Minister has requested the payment of the costs by written notice in the manner specified in subregulation (5); and
 - (c) if the costs were incurred by the Commonwealth within the period mentioned in subregulation (6).
- (3) However, if the person has already paid the costs of return travel in accordance with the sponsorship obligation mentioned in regulation 2.80 (the *return costs*), the person is liable to pay to the Commonwealth only the difference between:
- (a) the lesser of:
 - (i) the actual costs incurred by the Commonwealth in taking 1 or more of the actions mentioned in paragraph (2) (a); or
 - (ii) the costs up to the limit prescribed under paragraph 140J (1) (a) of the Act, as prescribed in regulation (4); and
 - (b) the return costs that have already been paid by the person.
- (4) For paragraph 140J (1) (a) of the Act, the limit in relation to the obligation at subregulation (2) is \$10 000.
- (5) For paragraph (2) (b), the notice from the Minister requesting the payment of costs must:
- (a) be given using a method mentioned in section 494B of the Act; and
 - (b) specify a date for compliance not earlier than 7 days after the date a person will be taken, by section 494C of the Act, to have received the notice.

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- (6) For paragraph 2 (c):
- (a) in relation to a primary sponsored person — the period within which the Commonwealth must incur the costs:
 - (i) starts on the day on which the primary sponsored person becomes an unlawful non-citizen; and
 - (ii) ends at the moment when the primary sponsored person leaves Australia; and
 - (b) in relation to a secondary sponsored person — the period within which the Commonwealth must incur the costs:
 - (i) starts on the day on which the secondary sponsored person becomes an unlawful non-citizen; and
 - (ii) ends at the moment when the secondary sponsored person leaves Australia.
- (7) The obligation mentioned in subregulation (2):
- (a) in relation to a primary sponsored person:
 - (i) starts to apply on the day on which the primary sponsored person becomes an unlawful non-citizen; and
 - (ii) ends 5 years after the time at which the primary sponsored person leaves Australia; and
 - (b) in relation to a secondary sponsored person:
 - (i) starts to apply on the day on which the secondary sponsored person becomes an unlawful non-citizen; and
 - (ii) ends 5 years after the time at which the secondary sponsored person leaves Australia.
- (8) In this regulation:
- costs*, in relation to the removal of a former primary sponsored person or a former secondary sponsored person from Australia, has the same meaning as in paragraph (b) of the definition of costs in section 207 of the Act.

2.82 Obligation to keep records

- (1) This regulation applies to a person who is or was:
- (a) a standard business sponsor; or
 - (b) a party to a work agreement (other than a Minister).

- (2) The person must keep records:
- (a) of a kind:
 - (i) specified in subregulation (3);
 - (ii) specified by the Minister in an instrument in writing (if any) made for the purpose of this subparagraph; and
 - (b) in a reproducible format; and
 - (c) either:
 - (i) in the manner specified by the Minister in an instrument in writing (if any) made for this subparagraph; or
 - (ii) if the record is a record mentioned in subparagraph (3) (a) (iii) — in a manner that is capable of being verified by an independent person; and
 - (d) for the period specified in subregulation (4), (5) or (6).
- (3) For subparagraph (2) (a) (i), the records are:
- (a) in relation to the obligation mentioned in regulation 2.80:
 - (i) a record of the written request by the primary sponsored person or secondary sponsored person for the payment of return travel costs; and
 - (ii) a record of when the written request for the payment of return travel costs was received by the person; and
 - (iii) a record of how the person complied with the request to pay return travel costs, including:
 - (A) the costs paid; and
 - (B) who the costs were paid for; and
 - (C) the date of the payment of the costs; and
 - (b) in relation to the obligation mentioned in regulation 2.84:
 - (i) a record of a notification to Immigration of an event specified in regulation 2.84 for the person; and
 - (ii) a record of the particulars of the notification of the event, including:
 - (A) the date on which the person notified Immigration of the event; and

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- (B) the method by which the notification was provided; and
 - (C) where the notification was provided; and
 - (c) a record of the tasks performed by the primary sponsored person in relation to work undertaken as the holder of a Subclass 457 (Business (Long Stay)) visa; and
 - (d) a record of the location or locations at which the tasks mentioned in paragraph (c) were performed.
- (4) If the person is or was a standard business sponsor, the obligation mentioned in subregulation (2):
- (a) starts to apply on the day on which the person is approved as a standard business sponsor under section 140E of the Act; and
 - (b) ends 2 years after the first day on which each of the following occurs concurrently:
 - (i) the person ceases to be a standard business sponsor;
 - (ii) there is no primary sponsored person or secondary sponsored person in relation to the person.
- (5) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):
- (a) starts to apply on the day on which the work agreement commences; and
 - (b) ends 2 years after the first day on which each of the following occurs concurrently:
 - (i) the person ceases to be a party to a work agreement;
 - (ii) there is no primary sponsored person or secondary sponsored person in relation to the person.
- (6) However, the obligation mentioned in subregulation (2) does not require a person to keep a record for a period of more than 5 years.

2.83 Obligation to provide records and information to the Minister

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor; or

- (b) a party to a work agreement (other than a Minister); or
 - (c) a professional development sponsor.
- (2) The person must provide records or information to the Minister:
- (a) if the Minister has requested the provision of the records or information by written notice in the manner specified in subregulation (3); and
 - (b) if the records requested by the Minister:
 - (i) are records the person is required to keep under a law of the Commonwealth or a State or Territory that applies to the person; or
 - (ii) are records the person is required to keep under regulation 2.82; and
 - (c) if the records or information relates to the administration of Division 3A of Part 2 of the Act and the Regulations made under that Division; and
 - (d) in the manner, and within the timeframe, requested by the Minister in the notice mentioned in subregulation (3).

Note Subregulation 2.82 does not apply to a professional development sponsor.

- (3) A notice from the Minister requesting the provision of records or information must:
- (a) be given using a method mentioned in section 494B of the Act; and
 - (b) specify a date for compliance not earlier than 7 days after the date on which a person will be taken, by section 494C of the Act, to have received the document.
- (4) If the person is or was a standard business sponsor or a professional development sponsor, the obligation mentioned in subregulation (2):
- (a) starts to apply on the day on which the person is approved as a sponsor under section 140E of the Act; and
 - (b) ends 2 years after the first day on which each of the following occurs concurrently:
 - (i) the person ceases to be a standard business sponsor or professional development sponsor; and

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- (ii) there is no primary sponsored person or secondary sponsored person in relation to the person.
- (5) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):
 - (a) starts to apply on the day on which the work agreement commences; and
 - (b) ends 2 years after the first day on which each of the following occurs concurrently:
 - (i) the person ceases to be a party to a work agreement;
 - (ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

2.84 Obligation to provide information to Immigration when certain events occur

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor; or
 - (b) a party to a work agreement (other than a Minister); or
 - (c) a professional development sponsor.
- (2) The person must:
 - (a) provide details of an event to Immigration when an event mentioned in this regulation, and specified for the person, occurs; and
 - (b) provide the details of the event by registered post or electronic mail:
 - (i) to an address specified by the Minister in an instrument in writing made for the purpose of this subparagraph; and
 - (ii) within the period specified in subregulation (6).
- (3) If the person is or was a standard business sponsor or a party to a work agreement, the person must notify Immigration about each of the following events:
 - (a) the cessation, or expected cessation, of a primary sponsored person's employment with the person;

- (b) a change to the information provided to Immigration in the person's application for approval as a sponsor in relation to:
 - (i) the training requirement mentioned in paragraphs 2.59 (d) and (e); and
 - (ii) the person's address and contact details;
- (c) a change to the information provided to Immigration in the person's application for a variation of a term of approval in relation to the training requirement mentioned in paragraphs 2.68 (e) and (f);
- (d) the legal entity of the person ceases to exist;
- (e) if the legal entity of the person is a company — a new director is appointed;
- (f) if the legal entity of the person is a partnership — a new partner joins the partnership;
- (g) if the legal entity of the person is an unincorporated association — a new member is appointed to the managing committee of the association;
- (h) the person has paid the return travel costs of a primary sponsored person or secondary sponsored person in accordance with the obligation mentioned in regulation 2.80;
- (i) the person has become insolvent within the meaning of subsections 5 (2) and (3) of the *Bankruptcy Act 1966* and section 95A of the *Corporations Act 2001*;
- (j) if the person is a natural person — any of the following:
 - (i) the person enters into a personal insolvency agreement under Part X of the *Bankruptcy Act 1966*;
 - (ii) the person enters into a debt agreement under Part IX of the *Bankruptcy Act 1966*;
 - (iii) a sequestration order is made against the estate of the person under Part IV of the *Bankruptcy Act 1966*;
 - (iv) the person becomes a bankrupt by virtue of the presentation of a debtor's petition under Part IV of the *Bankruptcy Act 1966*;

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- (v) the person presents a declaration of intention to present a debtor's petition under Part IV of the *Bankruptcy Act 1966*;
- (vi) a composition or scheme of arrangement is presented in relation to the person in accordance with Division 6 of Part IV of the *Bankruptcy Act 1966*;
- (k) if the person is a company — any of the following:
 - (i) an administrator is appointed for the company under Part 5.3A of the *Corporations Act 2001*;
 - (ii) the company resolves by special resolution to be wound up voluntarily under subsection 491 (1) of the *Corporations Act 2001*;
 - (iii) a court has ordered that the company be wound up in insolvency under Part 5.4, or on other grounds under Part 5.4A, of the *Corporations Act 2001*;
 - (iv) a court has appointed an official liquidator to be the provisional liquidator of the company under Part 5.4B of the *Corporations Act 2001*;
 - (v) a court has approved a compromise or arrangement proposed by the company under Part 5.1 of the *Corporations Act 2001*;
 - (vi) the property of the company becomes subject to a receiver or other controller under Part 5.2 of the *Corporations Act 2001*;
 - (vii) procedures are initiated for the deregistration of the company under Part 5A.1 of the *Corporations Act 2001*;
- (l) if the person is a partner of a partnership, or a member of a managing committee for an unincorporated association — any of the events of the kind mentioned in paragraphs (j) and (k).
- (4) If the person is or was a professional development sponsor of a primary sponsored person, the person must inform Immigration about each of the following events:
 - (a) a change to the information provided to Immigration in the person's application for approval as a sponsor in relation to:

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- (i) the person's address and contact details; and
 - (ii) the person's capacity to deliver the approved professional development program; and
 - (iii) the capacity of a sub-contractor involved in the delivery of the approved professional development program to deliver the program or any part of the program;
- (b) the legal entity of the person ceases to exist;
 - (c) if the legal entity of the person is a company — a new director is appointed;
 - (d) if the legal entity of the person is a partnership — a new partner joins the partnership;
 - (e) if the legal entity of the person is an unincorporated association — a new member is appointed to the managing committee of the association;
 - (f) the person has become insolvent within the meaning of subsections 5 (2) and (3) of the *Bankruptcy Act 1966* and section 95A of the *Corporations Act 2001*;
 - (g) if the person is a natural person — any of the following:
 - (i) the person enters into a personal insolvency agreement under Part X of the *Bankruptcy Act 1966*;
 - (ii) the person enters into a debt agreement under Part IX of the *Bankruptcy Act 1966*;
 - (iii) a sequestration order is made against the estate of the person under Part IV of the *Bankruptcy Act 1966*;
 - (iv) the person becomes a bankrupt by virtue of the presentation of a debtor's petition under Part IV of the *Bankruptcy Act 1966*;
 - (v) the person presents a declaration of intention to present a debtor's petition under Part IV of the *Bankruptcy Act 1966*;
 - (vi) a composition or scheme of arrangement is presented in relation to the person in accordance with Division 6 of Part IV of the *Bankruptcy Act 1966*;

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- (h) if the person is a company — any of the following:
 - (i) an administrator is appointed for the company under Part 5.3A of the *Corporations Act 2001*;
 - (ii) the company resolves by special resolution to be wound up voluntarily under subsection 491 (1) of the *Corporations Act 2001*;
 - (iii) a court has ordered that the company be wound up in insolvency under Part 5.4, or on other grounds under Part 5.4A, of the *Corporations Act 2001*;
 - (iv) a court has appointed an official liquidator to be the provisional liquidator of the company under Part 5.4B of the *Corporations Act 2001*;
 - (v) a court has approved a compromise or arrangement proposed by the company under Part 5.1 of the *Corporations Act 2001*;
 - (vi) the property of the company becomes subject to a receiver or other controller under Part 5.2 of the *Corporations Act 2001*;
 - (vii) procedures are initiated for the deregistration of the company under Part 5A.1 of the *Corporations Act 2001*;
 - (i) if the person is a partner of a partnership, or a member of a managing committee for an unincorporated association — any of the events of the kind mentioned in paragraphs (g) and (h);
 - (j) the primary sponsored person is unable to participate in the professional development program;
 - (k) the primary sponsored person has ceased participation in the professional development program prior to the ending of the professional development program;
 - (l) the primary sponsored person has failed to attend the professional development program, and this absence was not authorised by the professional development sponsor.
- (5) For paragraph (3) (a):
- (a) the person may notify Immigration of the final date of employment of the primary sponsored person before that date; and

Note 2

(b) if the primary sponsored person does not cease employment with the person, or ceases employment on a different date — the person must notify Immigration of the continued employment or the new date of cessation.

(6) The notification of an event mentioned in an item of the table must be made within the timeframe mentioned in the item.

Item	For an event mentioned in ...	the notification must be made ...
1	paragraph 3 (a)	within 10 working days of the primary sponsored person ceasing employment
2	paragraphs 3 (b) to (l)	within 10 working days of the change or event occurring
3	subregulation (4)	within 10 working days of the change or event occurring
4	subregulation (5)	the earlier of: <ul style="list-style-type: none"> (a) within 10 working days of the cessation date notified under paragraph (3) (a); and (b) within 10 working days of the actual cessation date

(7) If the person is or was a standard business sponsor or a professional development sponsor, the obligation mentioned in subregulation (2):

(a) starts to apply on the day on which the person is approved as a sponsor under section 140E of the Act; and

(b) ends after the first day on which each of the following occurs concurrently:

(i) the person ceases to be a standard business sponsor or a professional development sponsor; and

(ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

(8) If the person is or was a party to a work agreement, the obligation mentioned in subregulation (2):

(a) starts to apply on the day on which on which the work agreement commences; and

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- (b) ends after the first day on which each of the following occurs concurrently:
 - (i) the person ceases to be a party to a work agreement; and
 - (ii) there is no primary sponsored person or secondary sponsored person in relation to the person.

2.85 Obligation to secure an offer of a reasonable standard of accommodation for a primary sponsored person

- (1) This regulation applies to a person who is or was a professional development sponsor of a primary sponsored person.
- (2) The person must secure 1 or more offers of accommodation for the primary sponsored person that:
 - (a) will provide for a reasonable standard of accommodation; and
 - (b) will ensure that the primary sponsored person has accommodation during the entire period of participation in a professional development program.

Example

If accommodation that has been secured becomes unavailable, the professional development sponsor must secure another offer of accommodation for the primary sponsored person.

- (3) For subregulation (2) (a), accommodation is of a reasonable standard if the accommodation:
 - (a) meets all relevant State or Territory and local government regulations regarding fire, health and safety; and
 - (b) offers 24-hour access; and
 - (c) provides meals or a self-catering kitchen; and
 - (d) is clean and well-maintained; and
 - (e) has a lounge area; and
 - (f) has adequate laundry facilities or a laundry service; and
 - (g) provides power for lighting, cooking and refrigeration; and
 - (h) has an adequate ratio of guests to bathroom facilities; and
 - (i) has uncrowded sleeping areas; and

- (j) provides appropriate gender segregated areas and bathroom facilities; and
 - (k) allows adequate privacy and secure storage for personal items.
- (4) The obligation mentioned in subregulation (2):
- (a) starts to apply on the day on which the primary sponsored person is granted a Subclass 470 (Professional Development) visa; and
 - (b) ends on the earlier of:
 - (i) the day on which the primary sponsored person is granted a further substantive visa that:
 - (A) is not a Subclass 470 (Professional Development) visa; and
 - (B) is in effect; and
 - (ii) the first day on which each of the following occur concurrently:
 - (A) the primary sponsored person has left Australia; and
 - (B) the Subclass 470 (Professional Development) visa has ceased to be in effect; and
 - (C) if the primary sponsored person held a Subclass 020 — Bridging B visa when the primary sponsored person left Australia, and the last substantive visa held by the primary sponsored person was a Subclass 470 (Professional Development) visa — the bridging visa has ceased to be in effect.

2.86 Obligation to ensure primary sponsored person does not work in an occupation other than an approved occupation

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor of a primary sponsored person; or
 - (b) a party to a work agreement (other than a Minister) who is or was an approved sponsor of a primary sponsored person.

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- (2) The person must ensure that the primary sponsored person does not work in an occupation other than the occupation:
 - (a) nominated by the person for the primary sponsored person under subsection 140GB (1) of the Act; and
 - (b) approved by the Minister under subsection 140GB (2) of the Act.

- (3) The obligation mentioned in subregulation (2):
 - (a) starts to apply on:
 - (i) the day on which the Minister approves a nomination by the person of an occupation for the primary sponsored person; or
 - (ii) if the primary sponsored person does not hold a Subclass 457 (Business (Long Stay)) visa on the day the Minister approves the nomination — the day on which the primary sponsored person is granted a Subclass 457 (Business (Long Stay)) visa on the basis of an approved nomination by the person; and
 - (b) ends on the earlier of:
 - (i) the day on which the Minister approves a nomination under section 140GB of the Act by another standard business sponsor or party to a work agreement in relation to the primary sponsored person; and
 - (ii) the day on which the primary sponsored person is granted a further substantive visa that:
 - (A) is not a Subclass 457 (Business (Long Stay)) visa; and
 - (B) is in effect; and
 - (iii) the first day on which each of the following occurs concurrently:
 - (A) the primary sponsored person has left Australia;
 - (B) the Subclass 457 (Business (Long Stay)) visa has ceased to be in effect;
 - (C) if the primary sponsored person held a Subclass 020 — Bridging B visa when the primary sponsored person left Australia, and

the last substantive visa held by the primary sponsored person was a Subclass 457 (Business (Long Stay)) visa — the bridging visa has ceased to be in effect.

2.87 Obligation not to recover certain costs from a primary sponsored person or secondary sponsored person

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor of a primary sponsored person or a secondary sponsored person (if any); or
 - (b) a party to a work agreement (other than a Minister) who is or was an approved sponsor of a primary sponsored person or a secondary sponsored person (if any).
- (2) The person must not recover, or seek to recover, from the primary sponsored person or secondary sponsored person, all or part of the following costs:
 - (a) the costs that relate specifically to the recruitment of the primary sponsored person, including migration agent costs;
 - (b) the costs, including migration agent costs, associated with:
 - (i) becoming an approved sponsor; or
 - (ii) being an approved sponsor; or
 - (iii) being a former approved sponsor.
- (3) The obligation mentioned in subregulation (2):
 - (a) starts to apply on:
 - (i) the day on which the Minister approves a nomination by the person of an occupation for the primary sponsored person; or
 - (ii) if the primary sponsored person does not hold a Subclass 457 (Business (Long Stay)) visa on the day the Minister approves the nomination – the day on which the primary sponsored person is granted a Subclass 457 (Business (Long Stay)) visa on the basis of an approved nomination by the person; and

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- (b) for a primary sponsored person — ends on the earlier of:
 - (i) the day on which the Minister approves a nomination under section 140GB of the Act by another standard business sponsor or party to a work agreement in relation to the primary sponsored person; and
 - (ii) the day on which the primary sponsored person is granted a further substantive visa that:
 - (A) is not a Subclass 457 (Business (Long Stay)) visa; and
 - (B) is in effect; and
 - (iii) the first day on which each of the following occurs concurrently:
 - (A) the primary sponsored person has left Australia;
 - (B) the Subclass 457 (Business (Long Stay)) visa has ceased to be in effect;
 - (C) if the primary sponsored person held a Subclass 020 — Bridging B visa when the primary sponsored person left Australia, and the last substantive visa held by the primary sponsored person was a Subclass 457 (Business (Long Stay)) visa — the bridging visa has ceased to be in effect; and
- (c) for a secondary sponsored person — ends on the earlier of:
 - (i) the day on which the Minister approves a nomination by another approved sponsor in relation to the primary sponsored person; and
 - (ii) the day on which the secondary sponsored person is granted a further substantive visa that:
 - (A) is not a Subclass 457 (Business (Long Stay)) visa; and
 - (B) is in effect; and
 - (iii) the first day on which each of the following occurs concurrently:
 - (A) the secondary sponsored person has left Australia;

- (B) the Subclass 457 (Business (Long Stay)) visa has ceased to be in effect;
- (C) if the secondary sponsored person held a Subclass 020 — Bridging B visa when the secondary sponsored person left Australia, and the last substantive visa held by the primary sponsored person was a Subclass 457 (Business (Long Stay)) visa — the bridging visa has ceased to be in effect.

Division 2.20 Circumstances in which sponsor may be barred or sponsor's approval may be cancelled

2.88 Preliminary

For subparagraphs 140L (1) (a) (i) and (ii) of the Act, each of the circumstances mentioned in this Division is a circumstance in which the Minister may take one or more of the actions mentioned in section 140M of the Act.

Note The Minister cannot take action against a party to a work agreement under section 140M of the Act. The terms of the work agreement will provide for whether the agreement can be cancelled or whether the person can be barred from doing certain things under the agreement.

2.89 Failure to satisfy sponsorship obligation

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor;
 - (b) a standard business sponsor of a primary sponsored person or a secondary sponsored person;
 - (c) a professional development sponsor;
 - (d) a professional development sponsor of a primary sponsored person.
- (2) For subparagraph 140L (1) (a) (i) of the Act, the circumstance is that the Minister is satisfied that the person has failed to satisfy a sponsorship obligation mentioned in Division 2.19.

Note 2

- (3) For paragraph 140L (1) (b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
- (a) the past and present conduct of the person in relation to Immigration; and
 - (b) the number of occasions on which the person has failed to satisfy the sponsorship obligation; and
 - (c) the nature and severity of the circumstances relating to the failure to satisfy the sponsorship obligation, including the period of time over which the failure has occurred; and
 - (d) the period of time over which the person has been an approved sponsor; and
 - (e) whether, and the extent to which, the failure to satisfy the sponsorship obligation has had a direct or indirect impact on another person; and
 - (f) whether, and the extent to which, the failure to satisfy the sponsorship obligation was intentional, reckless or inadvertent; and
 - (g) whether, and the extent to which, the person has cooperated with Immigration, including whether the person informed Immigration of the failure; and
 - (h) the steps (if any) the person has taken to rectify the failure to satisfy the sponsorship obligation, including whether the steps were taken at the request of Immigration or otherwise; and
 - (i) the processes (if any) the person has implemented to ensure future compliance with the sponsorship obligation; and
 - (j) the number of other sponsorship obligations that the person has failed to satisfy, and the number of occasions on which the person has failed to satisfy other sponsorship obligations; and
 - (k) any other relevant factors.

2.90 Provision of false or misleading information

- (1) This regulation applies to a person who is or was:
- (a) a standard business sponsor; or

- (b) a professional development sponsor.
- (2) For subparagraph 140L (1) (a) (ii) of the Act, an additional circumstance is that the Minister is satisfied that the person has provided false or misleading information to Immigration or the Migration Review Tribunal.
- (3) For paragraph 140L (1) (b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
 - (a) the purpose for which the information was provided; and
 - (b) the past and present conduct of the person in relation to Immigration; and
 - (c) the nature of the information; and
 - (d) whether, and the extent to which, the provision of false or misleading information has had a direct or indirect impact on another person; and
 - (e) whether the information was provided in good faith; and
 - (f) whether the person notified Immigration immediately upon discovering that the information was false or misleading; and
 - (g) any other relevant factors.

2.91 Application or variation criteria no longer met

- (1) This regulation applies to a person who is or was:
 - (a) a standard business sponsor; or
 - (b) a professional development sponsor.
- (2) For subparagraph 140L (1) (a) (ii) of the Act, an additional circumstance is that the Minister is satisfied that:
 - (a) the person no longer satisfies the criteria prescribed under section 140E of the Act at the time the person was approved as a sponsor; or
 - (b) if the terms of the approval of the person as a standard business sponsor has been varied — the person no longer satisfies the criteria prescribed under section 140GA of the Act at the time of the approval of the variation.

Note 2

- (3) For paragraph 140L (1) (b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
- (a) the nature of the applicable sponsorship criteria that the person no longer meets; and
 - (b) whether, and the extent to which, the failure to continue to satisfy the criteria for approval as a sponsor, or to continue to satisfy the criteria for approval of a variation, has had a direct or indirect impact on another person; and
 - (c) the reason why the person no longer satisfies the applicable sponsorship criteria, including whether the failure to satisfy the criteria is within the person's control; and
 - (d) the steps (if any) the person has taken to ensure that the person will satisfy the applicable criteria in the future; and
 - (e) any other relevant factors.

2.92 Contravention of law

- (1) This regulation applies to a person who is or was:
- (a) a standard business sponsor; or
 - (b) a standard business sponsor of a primary sponsored person; or
 - (c) a professional development sponsor.

Standard business sponsors and professional development sponsors

- (2) For subparagraph 140L (1) (a) (ii) of the Act, an additional circumstance for a person who is or was a standard business sponsor or a professional development sponsor is that the Minister is satisfied that the person has been found by a court or a competent authority to have contravened a Commonwealth, State or Territory law.

- (3) For paragraph 140L (1) (b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstances mentioned in subregulation (2) are:
- (a) the past and present conduct of the person; and
 - (b) the nature of the law that the person has contravened; and
 - (c) the gravity of the unlawful activity; and
 - (d) any other relevant factors.

Standard business sponsors

- (4) For subparagraph 140L (1) (a) (ii) of the Act, an additional circumstance for a standard business sponsor is that the Minister is satisfied that each of the following applies:
- (a) the primary sponsored person has been found by a court or a competent authority to have contravened a Commonwealth, State or Territory law;
 - (b) the law was a law relating to the licensing, registration or membership of the primary sponsored person in relation to the primary sponsored person's occupation;
 - (c) the primary sponsored person was required to comply with the law in order to work in the occupation nominated by the standard business sponsor and approved by the Minister.
- (5) For paragraph 140L (1) (b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstances mentioned in subregulation (4) are:
- (a) whether the person took reasonable steps to prevent the primary sponsored person from contravening a law relating to a licensing, registration or membership requirement of the primary sponsored person's approved occupation; and
 - (b) whether any other primary sponsored person, while in the employ of the person, has been found by a court or a competent authority to have contravened a law relating to a licensing, registration or membership requirement; and

Note 2

- (c) the processes (if any) the person has implemented to ensure future compliance with the licensing, registration or membership requirements of a primary sponsored person's approved occupation; and
- (d) any other relevant factors.

2.93 Unapproved change to professional development program

- (1) This regulation applies to a person who is or was a professional development sponsor.
- (2) For subparagraph 140L (1) (a) (ii) of the Act, an additional circumstance is that the Minister is satisfied that the person has made a change to the professional development program without approval in writing from the Secretary.
- (3) For paragraph 140L (1) (b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
 - (a) the severity of the conduct; and
 - (b) the past conduct of the person in relation to Immigration; and
 - (c) the impact, if any, that the taking of the action may have on the Australian community; and
 - (d) the extent to which the barring of the person as a sponsor will be an adequate means of dealing with the matter, having regard to:
 - (i) the seriousness of the inability, or of the failure, to comply; and
 - (ii) the past conduct of the person; and
 - (e) any other relevant factors.

2.94 Failure to pay additional security

- (1) This regulation applies to a person who is or was a professional development sponsor.

-
- (2) For subparagraph 140L (1) (a) (ii) of the Act, an additional circumstance is that the Minister is satisfied that the person has failed to pay an additional security requested by an authorised officer under section 269 of the Act.
 - (3) For subregulation (2), a person has failed to pay an additional security if the person has failed to pay the security:
 - (a) within 28 days of the day on which the person was requested to pay the security; or
 - (b) within a longer period as allowed by an authorised officer in the request.
 - (4) For paragraph 140L (1) (b) of the Act, the criteria that the Minister must take into account in determining what action (if any) to take under section 140M of the Act in relation to the circumstance mentioned in subregulation (2) are:
 - (a) the severity of the conduct; and
 - (b) the past conduct of the person in relation to Immigration; and
 - (c) the impact, if any, that the taking of the action may have on the Australian community; and
 - (d) the extent to which the barring of the person as a sponsor will be an adequate means of dealing with the matter, having regard to:
 - (i) the seriousness of the inability, or of the failure, to comply; and
 - (ii) the past conduct of the person; and
 - (e) any other relevant factors.

Division 2.21 Process to bar sponsor or cancel sponsor's approval

2.95 Preliminary

- (1) This Division applies to a person who is or was an approved sponsor (other than a party to a work agreement).

Note The Minister cannot take action against a party to a work agreement under section 140M of the Act. The terms of the work agreement will

Note 2

provide for whether the agreement can be cancelled or whether the person can be barred from doing certain things under the agreement.

- (2) If the Minister is taking action against a person under section 140M of the Act, the Minister must do so in accordance with the process set out in this Division.

2.96 Notice of intention to take action

- (1) If the Minister is considering taking action under section 140M of the Act in relation to the person, the Minister must give a written notice to the person.
- (2) The notice must:
 - (a) specify details of the circumstances prescribed under section 140L of the Act in relation to which action is being considered; and
 - (b) specify details of the actions that the Minister may take; and
 - (c) specify the address for providing a response to the Minister; and
 - (d) be given using a method mentioned in section 494B of the Act; and
 - (e) specify a date for a response not earlier than 7 days after the date a person is taken to have received the notice by section 494C of the Act.

2.97 Decision

The Minister must consider a response before making a decision if the person:

- (a) provides a response to the Minister before the date mentioned in paragraph 2.96 (2) (e); or
- (b) provides a response:
 - (i) after the date mentioned in paragraph 2.96 (2) (e); and
 - (ii) before the Minister has made the decision.

2.98 Notice of decision

- (1) If the Minister decides to take action under section 140M of the Act, the Minister must notify the person, in writing, of the following matters:
 - (a) the decision taken by the Minister, including the effect of the decision;
 - (b) the grounds for making the decision;
 - (c) if the person has a right to have the decision reviewed under Part 5 of the Act — state:
 - (i) that the decision can be reviewed; and
 - (ii) the time in which the application for review may be made; and
 - (iii) who can apply for the review; and
 - (iv) where the application for review may be made;
 - (d) if an action is to bar the person:
 - (i) details of how the person can apply for a waiver of the bar; and
 - (ii) the address to which a request for a waiver, if made, must be sent.
- (2) If a notice is issued under regulation 2.96, and the Minister decides to take no action under section 140M of the Act, the Minister must notify the person, in writing, of the decision to take no action.

Division 2.22 Waiving a bar on sponsor's approval**2.99 Application**

This Division applies to a person who is or was an approved sponsor other than a party to a work agreement.

2.100 Circumstances in which a bar may be waived

For subsection 140O (2) of the Act, a circumstance in which the Minister may waive a bar is that the Minister has received a request from the person to waive the bar.

Note 2

2.101 Criteria for waiving a bar

For subsection 140O (3) of the Act, the criteria to be taken into account by the Minister in determining whether to waive a bar are:

- (a) whether the person has made the request to waive the bar in accordance with the process set out in regulation 2.102; and
- (b) if the Minister has not previously refused to waive the bar:
 - (i) whether the interests of Australia would be significantly affected if the bar were not waived; and
 - (ii) whether a substantial trade opportunity would be lost if the bar were not waived; and
 - (iii) whether there would be a significant detriment to the Australian community if the bar were not waived; and
 - (iv) whether the person's inability to sponsor a proposed primary sponsored person would significantly damage Australia's relations with the government of another country; and
 - (v) whether significant new evidence or information has come to light which was not available at the time the decision to place the bar was made; and
- (c) if the Minister has previously refused to waive the bar, whether the circumstances relevant to the making of the earlier decision have changed substantially.

2.102 Process to waive a bar

- (1) For section 140P of the Act, the Minister may waive a bar placed on the person under section 140M of the Act in accordance with the process set out in this regulation.
- (2) A request from the person to the Minister to waive the bar must:
 - (a) be in writing; and
 - (b) be sent to the address specified in the notice from the Minister mentioned in regulation 2.98.

Division 2.23 Disclosure of personal information**2.103 Disclosure of personal information by Minister**

- (1) For subsection 140ZH (1) of the Act, the kinds of information about a visa holder or a former visa holder that may be disclosed by the Minister to a person mentioned in column 3 of items 1 and 2 of the table in subsection 140ZH (1), and to an agency mentioned in subregulation (3), are:
- (a) information relating to a failure to comply with a visa condition; and
 - (b) information about the immigration status of the visa holder or former visa holder; and
 - (c) information about the terms and conditions of employment of the visa holder or former visa holder; and
 - (d) information about costs incurred by the Commonwealth in relation to the visa holder or former visa holder; and
 - (e) information about an allegation made by the visa holder or former visa holder (or presumed to be made by the visa holder or former visa holder) that:
 - (i) an approved sponsor or a former approved sponsor has failed to satisfy a sponsorship obligation; or
 - (ii) a circumstance prescribed under section 140L of the Act may exist; and
 - (f) information about a debt, relating to the visa holder or former visa holder, owed by an approved sponsor or former approved sponsor.
- (2) For subsection 140ZH (1) of the Act, the kinds of information about an approved sponsor, or former approved sponsor, of a visa holder or a former visa holder that may be disclosed by the Minister to a person mentioned in column 3 for items 3 and 4 of the table in subsection 140ZH (1), and to an agency mentioned in subregulation (3), are:
- (a) information relating to a failure, or a possible failure, to satisfy a sponsorship obligation prescribed under subsection 140H (1) of the Act; and
 - (b) information that a circumstance prescribed under section 140L of the Act may exist; and

Note 2

- (c) information about a warning given in relation to the possible existence of a circumstance prescribed under section 140L of the Act; and
- (d) information about an action taken under section 140M of the Act; and
- (e) information about a pecuniary penalty imposed for a contravention of section 140Q of the Act; and
- (f) information about a warning given in relation to a possible contravention of section 140Q of the Act; and
- (g) information about an infringement notice issued under section 140R of the Act; and
- (h) information about the outcome of monitoring by an inspector exercising powers under Subdivision F of Division 3A of Part 2 of the Act; and
- (i) information provided to the Minister in accordance with regulation 2.83; and
- (j) information provided to Immigration in accordance with regulation 2.84; and
- (k) information relevant to the performance of a function by a Commonwealth, State or Territory agency relating to the regulation of 1 or more of the matters mentioned in subregulation (3).

Note Regulation 2.83 prescribes a sponsorship obligation to provide records and information to the Minister. Regulation 2.84 prescribes a sponsorship obligation to provide information to Immigration when certain events occur.

- (3) For subsection 140ZH(1) of the Act, an agency that the Minister may disclose information to is a Commonwealth, State or Territory agency responsible for the regulation of 1 or more of the following matters:
 - (a) education;
 - (b) fair trading;
 - (c) health;
 - (d) industrial relations;
 - (e) law enforcement;
 - (f) public safety;
 - (g) registration and licensing in relation to an occupation;

- (h) taxation;
- (i) trade practices;
- (j) workplace safety;
- (k) workplace training.

2.104 Circumstances in which the Minister may disclose personal information

- (1) For subsection 140ZH (2) of the Act, this regulation sets out the circumstances in which the Minister may disclose personal information to which subsection 140ZH (1) of the Act applies.
- (2) Each of the following are circumstances in which the Minister may disclose personal information to a visa holder or a former visa holder:
 - (a) the disclosure of the information may assist Immigration in determining:
 - (i) whether an approved sponsor or a former approved sponsor has failed to satisfy a sponsorship obligation; or
 - (ii) whether a circumstance prescribed under section 140L of the Act exists in relation to an approved sponsor or a former approved sponsor of the visa holder or the former visa holder;
 - (b) the disclosure of the information may assist the visa holder or former visa holder to recover a debt under section 140S of the Act;
 - (c) the disclosure of the information will notify the visa holder or the former visa holder that their approved sponsor or former approved sponsor has been sanctioned:
 - (i) for a failure to satisfy a sponsorship obligation prescribed under section 140H of the Act; or
 - (ii) due to the existence of a circumstance prescribed under section 140L of the Act;
 - (d) the disclosure of the information will notify the visa holder or the former visa holder of the outcome of an allegation made by the visa holder or the former visa holder in relation to an approved sponsor or a former approved sponsor.

Note 2

- (3) Each of the following are circumstances in which the Minister may disclose personal information to an approved sponsor or a former approved sponsor:
- (a) the disclosure of the information may assist the approved sponsor or former approved sponsor:
 - (i) to respond to a claim that a sponsorship obligation has not been satisfied; or
 - (ii) to respond to a claim that a circumstance prescribed under section 140L of the Act exists; or
 - (iii) to satisfy a sponsorship obligation; or
 - (iv) to meet a liability to a visa holder or a former visa holder;
 - (b) the disclosure of the information will notify the approved sponsor or former approved sponsor that he or she is no longer the approved sponsor of a visa holder or a former visa holder;
 - (c) the disclosure of the information will notify the approved sponsor or former approved sponsor of the cancellation of a visa held by a person who is or was a primary sponsored person or a secondary sponsored person.
- (4) Each of the following are circumstances in which the Minister may disclose personal information to an agency of the Commonwealth or a State or Territory:
- (a) the disclosure of the information may assist the agency to perform a regulatory function in relation to the matters mentioned at subregulation 2.103 (3);
 - (b) the disclosure of the information may assist Immigration in determining:
 - (i) whether an approved sponsor or a former approved sponsor has satisfied a sponsorship obligation; or
 - (ii) whether a circumstance prescribed under section 140L of the Act exists.

2.105 Circumstances in which a recipient may use or disclose personal information

For subsection 140ZH (3) of the Act, the circumstance in which a recipient of personal information may use or disclose information to which subsection 140ZH (1) of the Act applies is that the information is to be used or disclosed by the recipient in the same circumstances in which it was disclosed to the recipient.

2.106 Disclosure of personal information to Minister

For subsection 140ZI (1) of the Act, the kind of personal information that the Minister may request an approved sponsor or a former approved sponsor of a visa holder or a former visa holder to disclose to the Minister is the contact details of the visa holder or the former visa holder.

Examples

- 1 a postal address
- 2 a residential address
- 3 a telephone number
- 4 a personal website
- 5 an email address.

[10] Subregulation 4.02 (1), including the note

omit

[11] Paragraphs 4.02 (4) (a) to (d)

substitute

- (a) a decision under subsection 140E (1) of the Act to refuse a person's application for approval as a sponsor in relation to one or more classes of sponsor;
- (d) a decision under subsection 140GB (2) of the Act to refuse to approve a nomination;

Note 2

[12] Paragraphs 4.02 (4) (g) to (i)

substitute

- (h) a decision under section 140M of the Act to take 1 or more actions to cancel a sponsor's approval or to bar a sponsor;

[13] Paragraph 4.02 (4) (m)

omit

applicant.

insert

applicant;

[14] After paragraph 4.02 (4) (m)

insert

- (n) a decision under subsection 140GA (2) of the Act not to vary a term specified in an approval.

[15] After subregulation 4.02 (4)

insert

- (4A) For paragraph (4) (a), the decision is not an MRT-reviewable decision if the decision relates to a person:

- (a) whose application for approval as an approved sponsor in relation to the standard business sponsor class has been refused; and
- (b) in making the decision, the Minister did not consider the criteria at paragraphs 2.59 (d) and (e).

Note The Minister is required to consider the criteria at paragraphs 2.59 (d) and (e) only if the applicant is lawfully operating a business in Australia.

- (4B) For paragraphs (4) (d) and (h), the decision is not an MRT-reviewable decision:

- (a) if the decision relates to a person who is:
- (i) a standard business sponsor; or
- (ii) a former standard business sponsor; and

- (b) either:
- (i) in making the decision under subsection 140E (1) of the Act (whether to approve the person as a standard business sponsor), the Minister did not consider the criteria at paragraphs 2.59 (d) and (e); or
 - (ii) in making the decision under subsection 140GA (2) of the Act (whether to vary the terms of approval), the Minister did not consider the criteria at paragraphs 2.68 (e) and (f).

Note The Minister is required to consider the criteria at paragraphs 2.59 (d) and (e) or paragraphs 2.68 (e) and (f) only if the applicant is lawfully operating a business in Australia.

- (4C) For paragraph (4) (n), the decision is not an MRT-reviewable decision if:
- (a) the decision relates to a person who is:
 - (i) a standard business sponsor; or
 - (ii) a former standard business sponsor; and
 - (b) in making the decision under subsection 140GA (2) of the Act (whether to vary the terms of approval), the Minister did not consider the criteria at paragraphs 2.68 (e) and (f).

Note The Minister is required to consider the criteria at paragraphs 2.68 (e) and (f) only if the applicant is lawfully operating a business in Australia.

[16] Paragraph 4.02 (5) (b)

omit

[17] Paragraph 4.02 (5) (c)

substitute

- (c) in the case of a decision mentioned in paragraph (4) (d) — the approved sponsor who made the nomination;

Note 2

[18] Paragraphs 4.02 (5) (f) and (g)

substitute

- (g) in the case of a decision mentioned in paragraph (4) (h) — the person whose approval is cancelled or who has been barred;

[19] Paragraph 4.02 (5) (j)

omit

[20] Paragraph 4.02 (5) (l)

omit

relates.

insert

relates;

[21] After paragraph 4.02 (5) (l)

insert

- (m) in the case of a decision to which paragraph (4) (n) applies — the approved sponsor who applied for a variation of the term.

[22] Regulation 5.20, heading

substitute

5.20 Prescribed penalties — offences (Act, ss 137, 229, 230 and 245N)

[23] After regulation 5.20*insert***5.20A Prescribed penalties — civil penalties (Act, s 140Q)**

For subsection 140R (1) of the Act, the penalty to be paid as an alternative to the Minister applying to a Court for an order that a pecuniary penalty be paid for a contravention of subsection 140Q (1) or (2) of the Act is:

- (a) if the person has previously been issued an infringement notice for an alleged contravention of a civil penalty provision, or has been ordered by a Court to pay a pecuniary penalty for a failure to satisfy a sponsorship obligation:
 - (i) in the case of a natural person — 12 penalty units; or
 - (ii) in the case of a body corporate — 60 penalty units; or
- (b) if paragraph (a) does not apply to the person:
 - (i) in the case of a natural person — 6 penalty units; or
 - (ii) in the case of a body corporate — 30 penalty units.

Note Subsections 140Q (1) and (2) of the Act are civil penalty provisions, which are contravened if an approved sponsor or a former approved sponsor fails to satisfy a sponsorship obligation.

[24] Subregulation 5.21 (1), definition of *prescribed penalty**substitute****prescribed penalty*** means:

- (a) in relation to an offence — the penalty prescribed by regulation 5.20 for the offence; or
- (b) in relation to a civil penalty provision — the penalty prescribed by regulation 5.20A for a contravention of the civil penalty provision.

Note 2

[25] Subregulation 5.21 (1), note

omit

Note

insert

Note 1

[26] Subregulation 5.21 (1), note

after

of a business visa.

insert

Subsections 140Q (1) and (2) are civil penalty provisions, which are contravened if an approved sponsor or a former approved sponsor fails to satisfy a sponsorship obligation.

[27] Subregulation 5.21 (1), after the note

insert

Note 2 **Civil penalty provision** is defined in subsection 5 (1) of the Act.

[28] Regulation 5.22

Substitute

5.22 When can an infringement notice be served?

- (1) If an authorised officer has reason to believe that a person has committed an offence or has contravened a civil penalty provision, the officer may cause an infringement notice to be served on the person in accordance with this Division.
- (2) An infringement notice must be served within 12 months of the date on which, or the last day of the period over which, an offence is alleged to have been committed or a civil penalty provision is alleged to have been contravened.

- (3) An infringement notice must not be served on a person in relation to:
- (a) a failure to satisfy a sponsorship obligation prescribed in regulation 2.78; or
 - (b) a failure to satisfy a sponsorship obligation prescribed in regulation 2.85.

Note Regulation 2.78 prescribes an obligation to cooperate with inspectors. Regulation 2.85 prescribes an obligation to secure an offer of a reasonable standard of accommodation for a primary sponsored person.

[29] Paragraph 5.23 (1) (b)

substitute

- (b) if the notice is for the commission of an offence — set out:
 - (i) the day on which the offence is alleged to have been committed; and
 - (ii) if the offence is against section 229 or 230 of the Act, the place at which the offence is alleged to have been committed; or
- (ba) if the notice is for a contravention of a civil penalty provision — set out the day on which, or the period over which, the civil penalty provision is alleged to have been contravened; and

[30] Paragraph 5.23 (1) (c)

after

particulars of the alleged offence

insert

or the alleged contravention of a civil penalty provision

[31] Paragraph 5.23 (1) (g)

omit

notice.

insert

notice; and

Note 2

[32] After paragraph 5.23 (1) (g)

insert

- (h) if the notice is for a contravention of a civil penalty provision — state that if the provision is contravened after the day on which, or the period over which, the contravention specified in the notice occurred, the person will have contravened the provision again and further action may be taken to sanction the person as mentioned in section 140K of the Act.

[33] Regulation 5.25

substitute

5.25 What happens if the prescribed penalty is paid?

If the person on whom an infringement notice is served pays the prescribed penalty in relation to the alleged offence or the alleged contravention of a civil penalty provision before:

- (a) the end of:
- (i) the period of 28 days after the date of service of the notice; or
 - (ii) if a further period has been allowed under regulation 5.24 — that further period; or
- (b) the notice is withdrawn;
- whichever happens first, then:
- (c) any liability of the person in respect of the alleged offence or the alleged contravention of the civil penalty provision is discharged; and
 - (d) no further proceedings may be taken in respect of the alleged offence or the alleged contravention of the civil penalty provision; and
 - (e) the person is not to be taken to have been convicted of the alleged offence.

[34] Subregulation 5.26 (2)

substitute

An infringement notice for:

- (a) an alleged offence against section 229 or 230 of the Act;
or
- (b) an alleged contravention of a civil penalty provision;
must not be withdrawn under subregulation (1) after the expiry of 3 months commencing on the day on which the notice was served.

[35] Regulation 5.28

substitute

5.28 Evidence

- (1) In the hearing of proceedings for:
 - (a) a prosecution for an offence specified in an infringement notice; or
 - (b) an application for a pecuniary penalty order in relation to a contravention of a civil penalty provision specified in an infringement notice;
a certificate signed by an authorised officer and stating a matter mentioned in subregulation (2) is evidence of the matter.
- (2) The matter is that the authorised officer:
 - (a) did not allow further time for payment of the penalty specified in the infringement notice under regulation 5.24 and the penalty was not paid within the time allowed for payment of the notice; or
 - (b) allowed a further period (as specified in the certificate) for payment of the penalty specified in the infringement notice and the penalty was not paid within that further period; or
 - (c) withdrew the infringement notice on a day specified in the certificate.

Note 2

- (3) A certificate that purports to have been signed by an authorised officer is taken to have been signed by that person unless the contrary is proved.

[36] Regulation 5.29, heading

substitute

5.29 Can there be more than one infringement notice for the same offence or contravention of a civil penalty provision?

[37] Regulation 5.29

after

for the same offence

insert

or the same contravention of a civil penalty provision

[38] Regulation 5.31

substitute

5.31 Infringement notice not compulsory

Nothing in this Division:

- (a) requires an infringement notice to be served on a person in relation to an offence or a contravention of a civil penalty provision; or
- (b) affects the liability of a person to be prosecuted for an offence or to be subject to proceedings in relation to a contravention of a civil penalty provision if the person does not comply with an infringement notice; or
- (c) affects the liability of a person to be prosecuted for an offence or to be subject to proceedings in relation to a contravention of a civil penalty provision if an infringement notice is not served on the person in relation

Note 2

- to the offence or in relation to a contravention of a civil penalty provision; or
- (d) affects the liability of a person to be prosecuted for an offence or to be subject to proceedings in relation to a contravention of a civil penalty provision if an infringement notice is served and withdrawn; or
 - (e) limits the amount of:
 - (i) the fine that may be imposed by a court on a person convicted of an offence; or
 - (ii) the pecuniary penalty that may be imposed by a court on a person for a contravention of a civil penalty provision.

As at 1 July 2009 the amendments are not incorporated in this compilation.

Note 3

Note 3

Migration Amendment Regulations 2009 (No. 7) (2009 No. 144)

The following amendments commence on 1 January 2010:

Schedule 3

[1] Subregulation 1.15B (5)

omit

[2] Regulation 1.15E

substitute

1.15E Concessional competent English

If a person applies for a General Skilled Migration visa, the person has ***concessional competent English*** if the person satisfies the Minister that the person has achieved, in a test conducted not more than 2 years before the day on which the application was made:

- (a) an IELTS test average band score of at least 6 for the 4 test components of speaking, reading, writing and listening; or
- (b) a score:
 - (i) specified by the Minister in an instrument in writing for this subparagraph; and
 - (ii) in a language test specified by the Minister in the instrument.

[3] Schedule 2, clause 485.111, note 6

omit

[4] Schedule 2, clause 485.215*substitute*

485.215 The applicant has competent English.

[5] Schedule 2, clause 487.111, note 2*omit***[6] Schedule 2, clause 487.111, note 6***omit***[7] Schedule 2, clause 487.215***substitute*

487.215 Either:

- (a) the applicant has concessional competent English; or
- (b) the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument in writing for this paragraph.

[8] Schedule 2, clause 487.224*substitute*

487.224 If the application is accompanied by evidence that the applicant has made arrangements to undergo a language test specified by the Minister in an instrument in writing for paragraph 487.215 (b), the applicant has concessional competent English.

[9] Schedule 2, clause 885.111, note 6*omit*

Note 3

[10] Schedule 2, clause 885.213

substitute

885.213 The applicant has competent English.

[11] Schedule 2, clause 886.111, note 6

omit

[12] Schedule 2, clause 886.213

substitute

886.213 The applicant has competent English.

[13] Schedule 6B, items 6B33, 6B34 and 6B35

substitute

- 6B33 The applicant: 15
- (a) has applied for:
 - (i) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (ii) a Subclass 487 (Skilled — Regional Sponsored) visa; and
 - (b) has concessional competent English

[14] Schedule 6B, items 6B101 to 6B104

substitute

- 6B101 The spouse or de facto partner of the applicant: 5
- (a) is an applicant for:
 - (i) a Subclass 175 (Skilled — Independent) visa; or
 - (ii) a Subclass 176 (Skilled — Sponsored) visa; or
 - (iii) a Subclass 885 (Skilled — Independent) visa; or

- (ii) a Subclass 886 (Skilled — Sponsored) visa; and
- (b) is an applicant for the same subclass of visa as the applicant; and
- (c) is not an Australian permanent resident or an Australian citizen; and
- (d) is, at the time of application, under 45 years of age; and
- (e) has nominated a skilled occupation in his or her application; and
- (f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and
- (g) has competent English; and
- (h) either:
 - (i) has met the Australian study requirement:
 - (A) in the period of 6 months ending immediately before the day the application was made; and
 - (B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or
 - (ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day

6B102 The spouse or de facto partner of the applicant: 5

- (a) is an applicant for:
 - (i) a Subclass 475 (Skilled — Regional Sponsored) visa; or
 - (ii) a Subclass 487 (Skilled — Regional Sponsored) visa; and

Note 3

- (b) is an applicant for the same subclass of visa as the applicant; and
- (c) is not an Australian permanent resident or an Australian citizen; and
- (d) is, at the time of application, under 45 years of age; and
- (e) has nominated a skilled occupation in his or her application; and
- (f) has been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation; and
- (g) has concessional competent English; and
- (h) either:
 - (i) has met the Australian study requirement:
 - (A) in the period of 6 months ending immediately before the day the application was made; and
 - (B) each degree, diploma or trade qualification used to satisfy the requirement is closely related to the applicant's nominated skilled occupation; or
 - (ii) at the time of application, has been employed in a skilled occupation for a period totalling at least 12 months in the 24 months immediately before that day

As at 1 July 2009 the amendments are not incorporated in this compilation.

Table A Application, saving or transitional provisions

Statutory Rules 1996 No. 276

Part 3 Transitional

18. Interpretation

18.1 In this Part:

Act means the *Migration Act 1958*.

commencement day means the day on which these Regulations commenced.

not finally determined has the same meaning as in subsection 5 (9) of the Act.

19. Certain applications for Interdependency (Migrant) (Class BI) and Spouse (Migrant) (Class BC) visas made during October 1996

19.1 If an application for an Interdependency (Migrant) (Class BI) visa or a Spouse (Migrant) (Class BC) visa:

- (a) was made on or after 1 October 1996 and before 1 November 1996; and
- (b) was not finally determined before the commencement day;

Schedule 2 to the Migration Regulations, as in force on 30 September 1996, applies to that application, subject:

- (c) in the case of an application for an Interdependency (Migrant) (Class BI) visa — to regulation 20; and
- (d) in the case of an application for a Spouse (Migrant) (Class BC) visa — both to the modifications set out in Schedule 2 to these Regulations and to regulation 20. [see Table B]

Table A

20. Effect of certain Subclass 100 (Spouse), 110 (Interdependency) and 152 (Family of New Zealand Citizen) visas

- 20.1 Despite anything to the contrary in Schedule 2 to the Migration Regulations as in force at any time, a Subclass 100 (Spouse), 110 (Interdependency) or 152 (Family of New Zealand Citizen) visa is a permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant if:
- (a) the visa was granted on or after 7 November 1996 and before the commencement day; or
 - (b) the visa was granted on the basis of an application that was not finally determined before the commencement day.

21. Certain applications for Interdependency (Provisional) (Class UG) and Spouse (Provisional) (Class UF) visas made on or after 1 November 1996 and before 7 November 1996

- 21.1 If an application for an Interdependency (Provisional) (Class UG) visa or a Spouse (Provisional) (Class UF) visa:
- (a) was made on or after 1 November 1996 and before 7 November 1996; and
 - (b) was not finally determined before the commencement day;

Schedule 2 to the Migration Regulations, as in force on 6 November 1996, applies, subject to the modifications set out in Schedule 3 to these Regulations, to that application. [*see* Table B]

Statutory Rules 1997 No. 91**13. Transitional — visa application charge on further visa applications (Migration Regulations, regulation 2.11)**

- 13.1 Subregulations 13.2 and 13.3 apply if:
- (a) an application for a visa (the first application) made by a person before the commencement of these Regulations is refused; and
 - (b) under regulation 2.11 of the Migration Regulations, the Minister invites the person to make a further application (the further application); and
 - (c) the person makes the further application after the commencement of these Regulations.
- 13.2 The actual amount that is payable by the person by way of the visa application charge in relation to the further application is the amount (if any) by which liability for the visa application charge in relation to the further application exceeds the actual amount of the application fee paid on the first application.
- 13.3 If the first instalment of the visa application charge payable on the further application is less than the actual amount of the application fee paid by the applicant in relation to the first application, the applicant is not entitled to a refund of the difference.

14. Transitional — continued operation of regulations 2.07A and 5.39 of Migration Regulations

- 14.1 Despite the repeal by these Regulations of regulations 2.07A and 5.39 of the Migration Regulations, those regulations continue to have effect in relation to applications for visas and entry permits made before the commencement of these Regulations.
-

Table A

Statutory Rules 1997 No. 263

Part 5 Transitional

34. Independent (Migrant) (Class AT) visa — addition of Subclass 135 (State/Territory-Nominated Independent)

- 34.1 The amendments made by subregulations 15.4 and 26.1 have effect in relation to an application for an Independent (Migrant) (Class AT) visa:
- (a) made, but not decided, before 1 November 1997; or
 - (b) made on or after 1 November 1997.
-

Statutory Rules 1998 No. 210

9. Application of amendments (Assurance of support)

- 9.1 The amendments made by regulation 4 and subregulation 5.3, and by regulations 8 and 9 of Statutory Rules 1998 No. 104, apply in relation to assurances of support given on or after 1 July 1998.

10. Application of amendments (Preferential Family and Family)

- 10.1 The amendments made by regulations 13 and 16 of Statutory Rules 1998 No. 104 apply in relation to applications for permanent visas that:
- (a) were made, but not finally determined (within the meaning of subsection 5 (9) of the Act), before 1 July 1998; or
 - (b) are made on or after 1 July 1998.
-

Statutory Rules 1999 No. 68

4 Transitional — MRT-reviewable decisions

(1) In this regulation:

business sponsor means a pre-qualified business sponsor, or a standard business sponsor, within the meaning of Division 1.4A of the *Migration Regulations 1994*.

original decision means any of the following decisions under the *Migration Regulations 1994*:

- (a) a decision under regulation 1.20D to reject a person's application;
- (b) a decision under regulation 1.20E to refuse to renew the approval of a person;
- (c) a decision under regulation 1.20F to revoke the approval of a person;
- (d) a decision under regulation 1.20H to refuse to approve the nomination of an activity by a business sponsor.

review officer has the same meaning as in section 337 of the *Migration Act 1958*, as in force immediately before the commencement of item 9 of Schedule 1 to the *Migration Legislation Amendment Act (No. 1) 1998*.

review officer's decision means a decision of a review officer on an original decision.

Tribunal has the same meaning as in section 337 of the *Migration Act 1958*, as in force immediately before the commencement of item 7 of Schedule 2 to the *Migration Legislation Amendment Act (No. 1) 1998*.

(2) For subsection 338 (9) of the Act, an original decision is an MRT-reviewable decision if:

- (a) notice of the original decision is given to the person to whom it relates in the period from the beginning of 11 May 1999 to the end of 31 May 1999 and an application has not been made for review by a review officer of that decision; or

Table A

- (b) an application for review by a review officer of the original decision is not decided by the officer before 1 June 1999.
- (3) For subsection 338 (9) of the Act, a review officer's decision is an MRT-reviewable decision if:
 - (a) notice of the review officer's decision is given to the person to whom it relates in the period from the beginning of 11 May 1999 to the end of 31 May 1999 and an application has not been made for review by the Tribunal of that decision; or
 - (b) an application for review by the Tribunal of the decision is not decided by the Tribunal before 1 June 1999.
- (4) An application for review mentioned in paragraph (2) (b) or (3) (b) is taken to be an application for review of an MRT-reviewable decision.
- (5) For paragraph 347 (1) (b) of the Act, the period in which an application for review of an MRT-reviewable decision mentioned in this regulation must be given to the Migration Review Tribunal is the period of 21 days from 1 June 1999.
- (6) For subparagraph 347 (1) (b) (iii) of the Act, the prescribed number of days in respect of an MRT-reviewable decision mentioned in this regulation is 28 days.

Note For subparagraph 347 (1) (b) (iii) of the Act, there must be a prescribed number of days in respect of kinds of decisions covered by subsection 338 (9) of the Act. The prescribed period for applications for review must end not later than the prescribed number of days after notification of the decision.
- (7) For paragraph 347 (2) (d) of the Act, an application for review of an original decision may only be made by:
 - (a) in the case of a decision mentioned in paragraph (a) of the definition of **original decision** in subregulation (1) — a person to whose application the decision relates;
 - (b) in the case of a decision mentioned in paragraph (b) or (c) of that definition — a person to whose approval the decision relates;

Table A

- (c) in the case of a decision mentioned in paragraph (d) of the definition — the business sponsor to whose nomination of an activity the decision relates.

5 Transitional — Bridging visas

The amendments made by items [1102], [1201], [1202] and [1301] to [1310] of Schedule 1 to these regulations apply in relation to an application for any of the following visas made on or after 1 June 1999:

- (a) a Bridging A (Class WA) visa;
- (b) a Bridging B (Class WB) visa;
- (c) a Bridging E (Class WE) visa.

6 Transitional — amendments commencing on 1 July 1999

- (1) The amendments made by items [2117] to [2119] and [2303] to [2306] of Schedule 2 to these regulations apply in relation to an application for an Employer Nomination (Migrant) (Class AN) visa made on or after 1 July 1999.
- (2) The amendments made by items [2106], [2108], [2201] and [2315] of Schedule 2 to these regulations do not apply in relation to an application for a Minorities of Former USSR (Special Assistance) (Class AV) visa that is not finally determined before 1 July 1999.
- (3) The amendments made by items [2107], [2109], [2202] and [2316] of Schedule 2 to these regulations do not apply in relation to an application for a Vietnamese (Special Assistance) (Class BK) visa that is not finally determined before 1 July 1999.
- (4) The amendments made by items [2301] and [2302] of Schedule 2 to these regulations apply in relation to an application for a Bridging E (Class WE) visa made on or after 1 July 1999.
- (5) The amendments made by items [2307] to [2314] of Schedule 2 to these regulations apply in relation to an application for a Return (Residence) (Class BB) visa made on or after 1 July 1999.

Table A

- (6) The amendments made by items [2318] and [2319] of Schedule 2 to these regulations apply in relation to an application for a General (Residence) (Class AS) visa made on or after 1 July 1999.
-

Statutory Rules 1999 No. 76

4 Transitional

- (1) The amendments made by items [1309] to [1313] of Schedule 1 to these regulations apply in relation to an application for a Short Stay (Visitor) (Class TR) visa made on or after 1 July 1999.
- (2) The amendments made by items [1304] to [1308] of Schedule 1 to these regulations apply in relation to an application for a Temporary Business Entry (Class UC) visa made on or after 1 July 1999.
-

Statutory Rules 1999 No. 81

6 Transitional

- (1) The amendment made by item [301] of Schedule 3 applies in relation to an application made on or after 1 June 1999.
- (2) The amendments made by items [4302] to [4306] of Schedule 4 apply to an application made on or after 1 July 1999.
- (3) The amendments made by item [4103] and items [4401] to [4403] of Schedule 4 apply to applications:
- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the Act), before 1 July 1999; or
 - (b) made on or after 1 July 1999.
-

Statutory Rules 1999 No. 155

4 Transitional

The amendment made by Schedule 1 applies in relation to an application made on or after the commencement of these regulations.

Statutory Rules 1999 No. 220

4 Transitional

- (1) The amendments made by items [1101], [1102], [1302], [1303] and [1309] apply in relation to an application made on or after 1 November 1999.
- (2) The amendments made by items [1307], [1308], [1310] to [1319], [1325], [1326], [1401] and [1402] apply in relation to an application:
 - (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 1999; or
 - (b) made on or after 1 November 1999.
- (3) The amendment made by item [2101] applies in relation to an application made on or after the commencement of Schedule 2.

5 Transitional — applications for Distinguished Talent (Migrant) (Class AL) visas and General (Residence) (Class AS) visas made before 1 November 1999

If an application for a Distinguished Talent (Migrant) (Class AL) visa, or a General (Residence) (Class AS) visa, was made before 1 November 1999 and was not finally determined before that date, the *Migration Regulations 1994*, as in force immediately before 1 November 1999, continue to apply to the application.

Table A

Statutory Rules 1999 No. 243

4 Transitional

The amendments made by these Regulations do not apply in relation to a person who:

- (a) applied for a Protection (Class AZ) visa before the commencement of these Regulations; and
 - (b) whose application was not finally determined before the commencement of these Regulations
-

Statutory Rules 1999 No. 259

5 Transitional

- (1) The amendments made by the following items of Schedule 2 to these Regulations apply only to an application for a visa made on or after 1 November 1999:

- (a) [2101] to [2106];
- (b) [2108];
- (c) [2110] to [2119];
- (d) [2123];
- (e) [2125] to [2128];
- (f) [2201];
- (g) [2203] to [2220];
- (h) [2222] to [2230];
- (i) [2301] to [2311];
- (j) [2314] to [2330];
- (k) [2331] to [2345];
- (l) [2347] to [2353].

- (2) The amendments made by items [2109], [2312], [2313] and [2501] of Schedule 2 to these Regulations apply in relation to an application for a visa:

Table A

-
- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 1999; or
 - (b) made on or after 1 November 1999.
- (3) The amendments made by items [2120] and [2121] of Schedule 2 to these Regulations apply only to a request for the waiver of a condition made on or after 1 November 1999.
- (4) The amendment made by item [2124] of Schedule 2 to these Regulations applies to an application for a visa:
- (a) made, but not decided, before 1 November 1999; or
 - (b) made on or after 1 November 1999.
- (5) If an application for a visa of one of the following classes was made before 1 November 1999, but was not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before that date, the *Migration Regulations 1994*, as in force immediately before 1 November 1999, continue to apply in relation to the application:
- (a) Adoption (Migrant) (Class AA);
 - (b) Change in Circumstances (Residence) (Class AG);
 - (c) Family (Residence) (Class AO);
 - (d) Preferential Relative (Migrant) (Class AY);
 - (e) Spouse (Migrant) (Class BC);
 - (f) Interdependency (Migrant) (Class BI);
 - (g) Extended Eligibility (Temporary) (Class TK);
 - (h) Spouse (Provisional) (Class UF);
 - (i) Interdependency (Provisional) (Class UG).
- (6) If:
- (a) a person is taken to have applied for a visa of a particular class as an additional applicant under paragraph 2.08A (1) (e); and
 - (b) the original applicant in relation to the additional applicant applied for a visa of the kind mentioned in paragraph 2.08A (1) (a) before 1 November 1999;

Table A

the *Migration Regulations 1994*, as in force immediately before 1 November 1999, apply in relation to the application taken to have been made by the additional applicant.

- (7) If:
- (a) a dependent child is taken to have applied for a visa of a particular class under paragraph 2.08B (1) (e); and
 - (b) the original applicant in relation to the additional applicant applied for any of the following visas before 1 November 1999:
 - (i) an Extended Eligibility (Temporary) (Class TK) visa;
 - (ii) an Interdependency (Provisional) (Class UG) visa;
 - (iii) a Prospective Marriage (Temporary) (Class TO) visa;
 - (iv) a Spouse (Provisional) (Class UF) visa;

the *Migration Regulations 1994*, as in force immediately before 1 November 1999, apply in relation to the application taken to have been made by the dependent child.

- (8) Despite subregulation (5), the amendment made by item [2109] of Schedule 2 to these Regulations applies in relation to an application for a Preferential Relative (Migrant) (Class AY) visa made before 1 November 1999 but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 November 2000.
- (9) Despite subregulation (5), the amendment made by item [2109] of Schedule 2 to these Regulations applies in relation to the criteria to be satisfied at the time of decision for an application for 1 of the following visas made before 1 November 1999 but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 November 2002:
- (a) Family (Residence) (Class AO);
 - (b) Change in Circumstances (Residence) (Class AG).

Statutory Rules 1999 No. 321**6 Transitional**

- (1) The amendments of the *Migration Regulations 1994* made by items [101], [107] and [108] of Schedule 1 do not apply in relation to a person:
- (a) who applied for a Protection (Class AZ) visa before 20 October 1999; and
 - (b) whose application was not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before that day.
- (2) If:
- (a) a person is taken to have applied for a Protection (Class AZ) visa as an additional applicant under paragraph 2.08A (1) (e) of the *Migration Regulations 1994*; and
 - (b) the original applicant in relation to the additional applicant applied for a Protection (Class AZ) visa before 20 October 1999;

the *Migration Regulations 1994*, as in force immediately before 20 October 1999, apply in relation to the application taken to have been made by the person as an additional applicant.

Statutory Rules 1999 No. 325**4 Transitional**

The amendment made by these Regulations applies to an application for a Bridging B (Class WB) visa:

- (a) made, but not finally determined, before 16 December 1999; or
- (b) made on or after 16 December 1999.

Table A

Statutory Rules 2000 No. 62

4 Transitional

- (1) The amendments made by items [3105], [3106], [3116], [3121], [3126], [3213], [3215], [3217], [33001], [33011], [33020], [33036], [33047], [33048], [33064] and [33071] to [33082] of Schedule 3 to these Regulations apply only in relation to an application for a visa made on or after 1 July 2000.
- (2) The amendments made by items [33083] to [33085] of Schedule 3 to these Regulations apply in relation to an application for a Temporary Business Entry (Class UC) visa:
 - (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2000; or
 - (b) made on or after 1 July 2000.
- (3) The amendment made by item [33032] of Schedule 3 to these Regulations applies in relation to an application for a Bridging E (Class WE) visa:
 - (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2000; or
 - (b) made on or after 1 July 2000.
- (4) The amendments made by items [33051], [33096] to [33099] and [33124] to [33127] of Schedule 3 to these Regulations 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 2000; or
 - (b) made on or after 1 July 2000.
- (5) If an application for a visa of one of the following classes was made before 1 July 2000, but was not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before that date, the *Migration Regulations 1994*, as

Table A

in force immediately before 1 July 2000, continue to apply in relation to the application:

- (a) Change in Circumstance (Residence) (Class AG);
- (b) Family (Residence) (Class AO);
- (c) Family of New Zealand Citizen (Migrant) (Class AP);
- (d) Former Citizen (Migrant) (Class AQ);
- (e) Former Resident (Migrant) (Class AR).

(6) If:

- (a) an application for a visa of a class mentioned in paragraph (5) (a), (b), (c), (d) or (e) was made before 1 July 2000; and
- (b) after the application is made, but before it is decided, the applicant makes a request to the Minister to have the applicant's spouse, or a dependent child, added to the applicant's application (whether or not the request is made before 1 July 2000); and
- (c) under paragraph 2.08A (1) (e), the spouse, or dependent child, is taken to have applied for a visa of the same class as the applicant —

the *Migration Regulations 1994*, as in force immediately before 1 July 2000, apply in relation to the application taken to have been made by the spouse or dependent child.

(7) Subject to subregulation (8), the amendments made by items [33087], [33091], [33110], [33113] to [33115], [3401], [3402] and [3506] of Schedule 3 to these Regulations apply in relation to an application for a visa made on or after 1 July 2000.

(8) If:

- (a) an application for a visa was made before 1 July 2000; and
- (b) after the application is made, but before it is decided, the applicant makes a request to the Minister to have a member of the family unit of the applicant who has not turned 18 (the *additional applicant*), added to the applicant's application (whether or not the request is made before 1 July 2000); and

Table A

- (c) under paragraph 2.08A (1) (e), the additional applicant is taken to have applied for a visa of the same class as the applicant —

the *Migration Regulations 1994*, as in force immediately before 1 July 2000, apply in relation to the application taken to have been made by the additional applicant.

Statutory Rules 2000 No. 259

6 Transitional

- (1A) The amendments of the *Migration Regulations 1994* made by items [4102], [4115], [4319] to [4326], [4401] and [4501] to [4504] apply in relation to an application for a visa:
 - (a) made on or after 1 November 2000; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2000.
- (1) The amendments of the *Migration Regulations 1994* made by items [4103], [4104], [4105], [4106], [4107], [4201], [4204], [4206], [4306], [4307], [4308] and [4309] of Schedule 4 do not apply in relation to an application that is made before 1 November 2000 for any of the following visas:
 - (a) Burmese in Burma (Special Assistance) (Class AB) visa;
 - (b) Burmese in Thailand (Special Assistance) (Class AC) visa;
 - (c) Citizens of the Former Yugoslavia (Special Assistance) (Class AI) visa;
 - (d) Sudanese (Special Assistance) (Class BD) visa;
 - (e) Sri Lankan (Special Assistance) (Class BG) visa;
 - (f) Ahmadi (Special Assistance) (Class BJ) visa.
- (2) If:
 - (a) an application for a visa of a kind mentioned in subregulation (1) was made before 1 November 2000; and

Table A

- (b) after the application is made, but before it is decided, the applicant makes a request to the Minister, in accordance with paragraphs 2.08A (1) (b) and (c), to have the applicant's spouse, or a dependent child, added to the applicant's application (whether or not the request is made before 1 November 2000);

the *Migration Regulations 1994*, as in force immediately before 1 November 2000, apply in relation to the application taken to have been made by the spouse or dependent child.

- (3) The amendment of the *Migration Regulations 1994* made by item [4108] of Schedule 4 applies in relation to:
- (a) an application for a visa that was made on or after 1 November 2000; or
- (b) an application for a visa that was made, but not finally determined, before 1 November 2000 and in relation to which the issue of whether a person has suffered domestic violence has not been raised.
- (4) The amendments made by items [4113] and [4114] of Schedule 4 apply only in relation to a visa that is granted on or after 1 July 2000.
- (5) The amendments made by items [4116], [4117], [4118], [4119], [4301], [4303], [4304] and [4305] of Schedule 4 apply to an application for a visa made on or after 1 November 2000.
- (6) The amendments made by items [4310], [4311], [4312], [4317] and [4318] of Schedule 4 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 November 2000; or
- (b) made on or after 1 November 2000.
- (7) The amendments made by items [4327] and [4334] of Schedule 4 apply to an application for a Protection (Class XA) visa made on or after 1 November 2000.

Table A

- (8) The amendments made by items [4332] and [4333] of Schedule 4 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 November 2000; or
 - (b) made on or after 1 November 2000.
- (9) If a request for a refund of the amount paid by way of an instalment of visa application charge was made before 1 November 2000, but the refund was not paid before that date, regulations 2.12F, 2.12H, 2.12I and 2.12J of the *Migration Regulations 1994*, as in force immediately before 1 November 2000, continue to apply in relation to the request.

Statutory Rules 2000 No. 284

5 Application of amendments in Schedule 2

- (1) The amendment made by item [1] in Schedule 2 applies in relation to:
 - (a) a visa that is in effect on or after 1 November 2000; and
 - (b) an application for a visa that is made on or after 1 November 2000.
- (2) The amendment made by item [2] in Schedule 2 applies in relation to a visa that is in effect on or after 1 November 2000.
- (3) The amendment made by item [3] in Schedule 2 applies in relation to an application for a visa that is made on or after 1 November 2000.

Statutory Rules 2000 No. 335**4 Transitional**

- (1) The amendment made by item [1] of Schedule 2 applies in relation to a notification received by the detainee on or after 14 December 2000.
- (2) The amendment made by item [2] of Schedule 2 applies in relation to applications, for review by the Migration Review Tribunal of a decision to which paragraph 4.02 (4) (f) of the *Migration Regulations 1994* applies and a decision to refuse to grant the visa mentioned in subparagraph 4.02 (4) (f) (ii) of those Regulations, both of which are made on or after 14 December 2000.
- (3) The amendments made by items [3] to [6] of Schedule 2 apply in relation to an invitation to give, or an extension of the period to give, information or comments that is made on or after 14 December 2000.
- (4) Subregulation (3) applies regardless of when the application for review by the Migration Review Tribunal to which the invitation or extension relates was made.

Statutory Rules 2001 No. 27**4 Transitional**

- (1) The amendment made by item [1] of Schedule 1 has effect whether or not the provision of the *Social Security Act 1991*, under which the Determination mentioned in paragraph (b) of the definition of *eligible New Zealand citizen* is made, formed part of that Act at the time Schedule 1 commences.
- (2) The amendment made by item [26] of Schedule 1 applies to an application for a Skilled — Australian-sponsored (Migrant) (Class BQ) visa made on or after 27 February 2001.

Table A

Statutory Rules 2001 No. 47

4 Transitional

The amendments in item [2] of Schedule 1 apply to an application for a visa that is made on or after 1 April 2001.

Statutory Rules 2001 No. 86

4 Transitional

- (1) The amendments made by items [2105] to [2107], [2201], [2314] to [2327], [2331], [2333], [2401] and [2402] of Schedule 2 apply 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 2001; or
 - (b) made on or after 1 July 2001.
 - (2) The amendments made by items [2108] to [2112], [2114], [2202] to [2207], [2301] to [2313], [2328] to [2330], [2332] and [2334] to [2338] of Schedule 2 apply to an application for a visa made on or after 1 July 2001.
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Statutory Rules 2001 No. 142

4 Transitional

- (1) The amendments made by items [1], [7] to [17] and [19] to [23] apply to an application for a visa that is made on or after 1 July 2001.
- (2) The amendment made by item [3] applies to an application, for review of a decision, that is made on or after 1 July 2001.
- (3) The amendments made by items [6], [24] and [25] apply to an application for a visa:

Table A

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- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2001; or
 - (b) made on or after 1 July 2001.
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Statutory Rules 2001 No. 162**4 Transitional**

- (1) The amendments made by items [1] to [15], [15A] to [19], [31] to [40], [43] to [58], [60] to [90], [92] to [128], [134] to [136] of Schedule 1 apply in relation to an application for a visa made on or after 1 July 2001.
 - (2) The amendments made by items [41], [42], [129] to [131] and [133] of Schedule 1 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 2001; or
 - (b) made on or after 1 July 2001.
 - (3) The amendments made by items [21] to [26], [29] and [30] of Schedule 1 apply to a nomination of a business activity made on or after 1 July 2001.
 - (4) To avoid doubt, despite item [97] of Schedule 1, Parts 560, 562 and 563 (as they read immediately before 1 July 2001) continue to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2001.
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Table A

Statutory Rules 2001 No. 206

4 Transitional

- (1) The amendments made by items [1] to [4] and [13] to [28] of Schedule 1 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 10 August 2001; or
 - (b) made on or after 10 August 2001.
- (2) The amendments made by items [5] and [8] to [12] of Schedule 1 apply in relation to any visa (including a visa that has been cancelled).
- (3) The amendments made by items [6] and [7] of Schedule 1 apply in relation to an application for a visa made on or after 10 August 2001.
- (4) Despite item [29] of Schedule 1, regulations 5.02A and 5.03 of the *Migration Regulations 1994* (as they read immediately before these Regulations commence) continue to apply in relation to a notice given under either of those regulations before these Regulations commence.

Statutory Rules 2001 No. 239

4 Transitional

- (1) The amendments made by items [1] to [6], [38] to [54] and [60] to [73] of Schedule 1 apply in relation to an application for a visa made on or after 1 November 2001.
- (2) The amendments made by items [20], [21], [30] and [31] of Schedule 1 apply to a notice that is given on or after 1 November 2001.
- (3) The amendment made by item [25] of Schedule 1 applies to an application for review that is withdrawn on or after 1 November 2001.

Table A

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- (4) The amendments made by items [26] to [29] of Schedule 1 apply if the invitation to give additional information, or to comment on information, is given on or after 1 November 2001.
 - (5) The amendments made by items [55] to [59] of Schedule 1 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 November 2001; or
 - (b) made on or after 1 November 2001.
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Statutory Rules 2001 No. 246**4 Transitional**

The amendments made by Schedule 1 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 19 September 2001; or
 - (b) made on or after 19 September 2001.
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Statutory Rules 2001 No. 283**4 Transitional**

The amendments made by Schedule 1 apply 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 the date of the commencement of these Regulations; or
 - (b) made on or after the date of the commencement of these Regulations.
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Table A

Statutory Rules 2001 No. 285

4 Transitional

- (1) The amendments made by Schedule 1 apply in relation to an application for a visa that is made on or after the date of the commencement of Schedule 1.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 November 2001.

Statutory Rules 2001 No. 344

4 Transitional

- (1) The amendments made by Schedule 1 (except item [2]) apply in relation to an application for a visa made on or after 28 January 2002.
- (2) To avoid doubt, despite item [2] of Schedule 1, subparagraphs 2.10 (1) (b) (iv) to (vii) of the *Migration Regulations 1994* (as they read immediately before 28 January 2002) continue to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 28 January 2002.

Statutory Rules 2002 No. 10

4 Transitional — amendments made by Schedule 1

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 November 2001.

5 Transitional — amendments made by Schedule 2

- (1) The amendments made by items [5], [6], [17], [19], [24], [26], [31], [33], [38], [40], [45], [47], [52], [54], [59] and [63] to [82] of Schedule 2 apply in relation to an application for a visa:

Table A

- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 March 2002; or
 - (b) made on or after 1 March 2002.
- (2) The amendments made by the remainder of Schedule 2 apply in relation to an application for a visa made on or after 1 March 2002.

Statutory Rules 2002 No. 86
4 Transitional — amendment made by Schedule 1

The amendment made by Schedule 1 applies 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 the date of the commencement of Schedule 1; or
- (b) made on or after the date of the commencement of Schedule 1.

5 Transitional — amendments made by Schedule 2

- (1) The amendments made by items [2127] and [2128] of Schedule 2 apply in relation to an assessment of a person's skills made by a relevant assessing authority on or after 1 July 2002.
- (2) The amendments made by items [2101] to [2106], [2110] to [2118], [2119], [2122], [2126], [2129], [2132], [2201], [2204] to [2212], [2215] to [2217], [2301], [2304] to [2306], [2308], [2311], [2313], [2315], [2318], [2322] to [2327], [2329] to [2338], [2340] to [23106], [23109] to [23111], [2401], [2501] to [2527], [2602], and [2801] of Schedule 2 apply in relation to an application for a visa made on or after 1 July 2002.
- (3) The amendments made by items [2107] to [2109] of Schedule 2 apply in relation to an application for approval made on or after 1 July 2002.

Table A

- (4) The amendment made by item [2133] of Schedule 2 applies in relation to a decision, or a decision included in a class of decisions, made on or after 1 July 2002 under a provision of the *Migration Act 1958*.
- (5) The amendments made by items [2202], [2302], [2303], [2307], [2309], [2310], [2312], [2314], [2316], [2317], [2319] to [2321], [2328], [23107], [23108] and [2601] of 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 2002; or
 - (b) made on or after 1 July 2002.
- (6) The amendments made by items [2123], [2124], [2130] and [2131] of Schedule 2 apply in relation to a review application:
 - (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2002; or
 - (b) made on or after 1 July 2002.

Statutory Rules 2002 No. 121

4 Transitional

The amendments made by Schedule 1 apply to an application for a visa made on or after 1 July 2002.

Statutory Rules 2002 No. 213

5 Transitional

- (1) The amendments made by items [1113], [1201] to [1206], [1301], [1304], [1309], [1310], [1317], [1318], [1324], [1325], [1330], [1331], [1337], [1338], [1344], [1345], [1351], [1352], [1357] and [1358] apply to an application for a visa:

Table A

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- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2002; or
 - (b) made on or after 1 November 2002.
- (2) The amendments made by items [1101] to [1103], [1106] to [1112], [1207] to [1209], [1302], [1303], [1305] to [1308], [1311] to [1316], [1319] to [1323], [1326] to [1329], [1332] to [1336], [1339] to [1343], [1346] to [1350], [1353] to [1356], [1359] to [1375] and [1401] to [1418] apply to an application for a visa made on or after 1 November 2002.
 - (3) The amendments made by items [1104] and [1105] apply to a nomination of an activity made on or after 1 November 2002.
 - (4) The amendments made by items [1115] and [1501] apply to an airline crew member who enters Australia on or after 1 November 2002.
 - (5) An airline crew member who is in Australia on 1 November 2002, who entered Australia before 1 November 2002 and who satisfied the requirements of subregulation 2.40 (10) as in force before 1 November 2002 is taken to satisfy the requirements of subregulation 2.40 (10) as in force on and after 1 November 2002.
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Statutory Rules 2002 No. 230

4 Transitional

- (1) The amendments made by items [1301], [1302], [1308], [1309] and [1310] 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 November 2002; or
 - (b) made on or after 1 November 2002.

Table A

- (2) The amendments made by items [1101], [1102], [1303], [1304], [1305], [1306] and [1307] apply in relation to an application for a visa made on or after 1 November 2002.

Statutory Rules 2002 No. 299

4 Transitional

- (1) The amendment made by item [1103] applies in relation to a request to have a dependent child added to an application for a Resolution of Status (Temporary) (Class UH) visa, made on or after 9 December 2002.
- (2) The amendments made by items [1301] to [1347] 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 9 December 2002; or
 - (b) made on or after 9 December 2002.

Statutory Rules 2002 No. 348

4 Transitional

- (1) The amendments made by items [2309] to [2312], [2352] and [2360] 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 March 2003; or
 - (b) made on or after 1 March 2003.
- (2) The amendments made by items [2101] to [2105], [2109], [2110], [2112], [2113], [2116], [2117], [2301] to [2308], [2313] to [2351], [2353] to [2359], [2361] to [2368], [2401] to [2403], [2501], [2502] and [2601] to [2603] apply in relation to an application for a visa made on or after 1 March 2003.

Table A

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- (3) The *Migration Regulations 1994*, as in force immediately before 1 March 2003, continue to 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 March 2003; and
 - (b) that relied on satisfying the criteria in Part 127, 128, 129, 130, 131, 840, 841, 842, 843 or 844 of Schedule 2 to the *Migration Regulations 1994*.
-

Statutory Rules 2003 No. 94**4 Transitional — amendments made by Schedule 1**

The amendments made by Schedule 1 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 the date of commencement of Schedule 1; or
- (b) made on or after the date of commencement of Schedule 1.

5 Transitional — amendments made by Schedule 2

- (1) The amendment made by item [2321] applies 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 2003; or
 - (b) made on or after 1 July 2003.
- (2) The amendments made by items [2103], [2301], [2302], [2303], [2304], [2305], [2306], [2307], [2308], [2309], [2310], [2311], [2312], [2313], [2314], [2315], [2316], [2317], [2318], [2319], [2320], [2322], [2323], [2324], [2325], [2327], [2328], [2331], [2332], [2401] and [2402] apply in relation to an application for a visa made on or after 1 July 2003.
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Table A

Statutory Rules 2003 No. 106

4 Transitional

- (1) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after the commencement of that Schedule.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2003.

Statutory Rules 2003 No. 122

4 Transitional

- (1) The amendments made by items [1103] and [1104] of Schedule 1 apply in relation to the cancellation of a visa on or after 1 July 2003.
- (2) The amendments made by item [1102] and by Parts 2 and 3 of Schedule 1 apply in relation to an application for a visa made on or after 1 July 2003.
- (3) The amendments made by items [1105] and [1106] and Part 4 of Schedule 1 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 2003; or
 - (b) made on or after 1 July 2003.

Statutory Rules 2003 No. 154

4 Transitional

- (1) The amendments made by items [1], [2], [14], [21], [22], [23] and [24] of Schedule 1 apply in relation to an application for a approval as an approved professional development sponsor made on or after 1 July 2003.

Table A

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- (2) The amendments made by items [1], [2], [3], [17], [18], [21], [22], [23] and [24] of Schedule 1 apply in relation to an application for a visa made on or after 1 July 2003.
 - (3) The amendments made by items [15] and [16] of Schedule 1 apply in relation to an assessment made for subsection 93 (1) of the *Migration Act 1958* on or after 1 July 2003.
 - (4) The amendments made by Schedules 2, 3, 5 and 6 apply in relation to an application for a visa made on or after 1 July 2003.
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Statutory Rules 2003 No. 239

4 Transitional

- (1) The amendments made by:
 - (a) items [3], [4], [5], [8], [9], [10], [11], [12], [13], [14] and [15] of Schedule 1; and
 - (b) Schedule 2; and
 - (c) items [1], [2], [3], [4], [5], [7], [8], [9], [10], [11], [12], [13], [14], [15], [16], [17], [19], [20], [21], [22], [23], [24], [25], [26], [27], [28] and [29] of Schedule 3; and
 - (d) Schedule 6;
 apply in relation to an application for a visa made on or after 1 November 2003.
- (2) The amendments made by item [18] of Schedule 3 and Schedule 4 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 November 2003; or
 - (b) made on or after 1 November 2003.
- (3) The amendments made by items [1], [2] and [16] of Schedule 1 apply to an airline crew member who is in Australia, or enters Australia, on or after 1 November 2003.

Table A

- (4) The amendment made by item [2] of Schedule 5 applies to an airline crew member who enters Australia on or after 1 November 2003.
- (5) The amendment made by item [3] of Schedule 5 applies to a member of the crew of a non-military ship who enters Australia on or after 1 November 2003.

Statutory Rules 2003 No. 296

4 Transitional

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 December 2003.

Statutory Rules 2003 No. 362

4 Transitional

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 January 2004.

Statutory Rules 2003 No. 363

5 Transitional

- (1) The amendment made by item [1] of Schedule 1 applies in relation to an assessment made for subsection 93 (1) of the *Migration Act 1958* on or after 1 January 2004.
- (2) The amendments made by items [3], [4] and [15] of Schedule 2 apply in relation to a person entering Australia on or after 1 January 2004 who made an application for a visa on or after 1 January 2004.

Table A

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- (3) The amendments made by items [1], [4], [5], [8], [9], [10], [11], [12], [13], [14] and [15] of Schedule 5 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 January 2004; or
 - (b) made on or after 1 January 2004.
- (4) The amendments made by:
- (a) item [2] of Schedule 1; and
 - (b) items [5], [6], [7], [9], [10], [11], [12], [13] and [14] of Schedule 2; and
 - (c) Schedule 3; and
 - (d) items [2], [3], [6] and [7] of Schedule 5; and
 - (e) Schedule 6; and
 - (f) Schedule 7; and
 - (g) Schedule 8; and
 - (h) Schedule 9;
- apply in relation to an application for a visa made on or after 1 January 2004.
-

Statutory Rules 2004 No. 21**4 Transitional**

- (1) The amendments made by items [1], [2] and [15] of Schedule 2 apply in relation to a person who:
- (a) makes an application for a visa on or after 1 March 2004; and
 - (b) is outside Australia at the time of application; and
 - (c) enters Australia on or after 1 March 2004.
- (2) The amendment made by Schedule 4 applies 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 March 2004; or

Table A

- (b) made on or after 1 March 2004.
- (3) The amendments made by:
 - (a) Schedule 1; and
 - (b) items [3], [4], [5], [6], [7], [8], [9], [10], [11], [12], [13] and [14] of Schedule 2; and
 - (c) Schedule 3;apply in relation to an application for a visa made on or after 1 March 2004.

Statutory Rules 2004 No. 93

4 Transitional — amendments made by Schedule 6

The amendments made by Schedule 6 apply in relation to a nomination made on or after 1 November 2003.

5 Transitional — amendments made by other Schedules

- (1) The amendments made by Schedule 1 apply to persons who enter Australia on or after 1 July 2004.
- (2) The amendments made by Part 1 of Schedule 2 apply in relation to an application for a visa made on or after 1 July 2004.
- (3) The amendments made by Part 2 of 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 2004; or
 - (b) made on or after 1 July 2004.
- (4) The amendment made by Schedule 3 applies in relation to an application for a visa in the following circumstances:
 - (a) the application is made on or after 1 July 2004;

Table A

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- (b) at the time of the application, the applicant holds or has held a visa that is cancelled on or after 1 July 2004 under section 116 or 128 of the *Migration Act 1958* on the ground mentioned in paragraph 2.43 (1) (o) of the *Migration Regulations 1994*.
 - (5) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 July 2004.
 - (6) The amendment made by item [1] of Schedule 5 applies in relation to an application for approval as a standard business sponsor made on or after 1 July 2004.
 - (7) The amendment made by item [2] of Schedule 5 applies in relation to a nomination made on or after 1 July 2004.
 - (8) The amendments made by items [1] and [3] of Schedule 8 apply to a person who enters Australia on or after 1 July 2004.
 - (9) The amendment made by item [2] of Schedule 8 applies 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 2004; or
 - (b) made on or after 1 July 2004.
 - (10) The amendments made by Schedule 9 apply in relation to an application for:
 - (a) a Contributory Parent (Temporary) (Class UT) visa; or
 - (b) a Contributory Aged Parent (Temporary) (Class UU) visa; or
 - (c) a Contributory Parent (Migrant) (Class CA) visa; or
 - (d) a Contributory Aged Parent (Residence) (Class DG) visa; made on or after 1 July 2004.
 - (11) The amendments made by Schedule 10 apply in relation to an application for a visa made on or after 1 July 2004.
 - (12) The amendments made by Schedule 12 (other than items [8], [9] and [32]) apply in relation to an application for a visa made on or after 1 July 2004.

Table A

- (13) The amendments made by items [8], [9] and [32] of Schedule 12 apply to a person who enters Australia on or after 1 July 2004.

Statutory Rules 2004 No. 131

4 Transitional

- (1) The amendments made by:
- (a) Schedule 1; and
 - (b) items [5], [7] and [8] of Schedule 2; and
 - (c) items [1] and [3] of Schedule 4;
- apply in relation to an application for a visa made on or after 1 July 2004.
- (2) The following amendments apply in relation to an application for approval as an approved professional development sponsor made on or after 1 July 2004:
- (a) the amendments made by items [1] and [2] of Schedule 2;
 - (b) the amendment of paragraph 4.02 (4) (g) of the *Migration Regulations 1994* made by item [3] of Schedule 2.
- (3) The amendment of paragraph 4.02 (4) (h) of the *Migration Regulations 1994* made by item [3] of Schedule 2, and the amendment of paragraph 4.02 (5) (g) of the *Migration Regulations 1994* made by item [4] of Schedule 2, apply in relation to an application for approval as an approved professional development sponsor:
- (a) made on or after 1 July 2004; and
 - (b) approved on or after 1 July 2004.
- (4) The amendment made by item [6] of Schedule 2 applies in relation to an application for a visa made on or after 1 July 2004, if:

Table A

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- (a) the applicant is sponsored by a sponsor who applied for approval as an approved professional development sponsor on or after 1 July 2004; and
 - (b) the sponsor's application for approval as an approved professional development sponsor was approved on or after 1 July 2004.
- (5) Despite items [1], [2], [3] and [4] of Schedule 2 and item [17] of Schedule 3:
- (a) Division 1.4C of the *Migration Regulations 1994*; and
 - (b) paragraphs 4.02 (4) (g), (h) and (i) and 4.02 (5) (g) of the *Migration Regulations 1994*;
- as in force immediately before 1 July 2004, continue to apply in relation to:
- (c) an application for approval as a professional development sponsor made before 1 July 2004; and
 - (d) an organisation that applied for approval as a professional development sponsor before 1 July 2004, and whose application for approval as a professional development sponsor was approved.
- (6) The amendments made by Schedule 3 apply in relation to each of the following:
- (a) an application for approval as a sponsor made on or after 1 July 2004;
 - (b) the nomination of an activity, to be undertaken in Australia by the prospective holder of a Subclass 457 (Business (Long Stay)) visa, made on or after 1 July 2004;
 - (c) an application for a visa made on or after 1 July 2004.
- (7) The amendment made by item [2] of Schedule 4 applies 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 2004; or
 - (b) made on or after 1 July 2004.
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Table A

Statutory Rules 2004 No. 223

4 Transitional — Schedule 1

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after the commencement of this regulation.

5 Transitional — Schedule 2

The amendments made by Schedule 2 apply in relation to an application for a Refugee and Humanitarian (Class XB) visa made on or after 1 September 2004.

Statutory Rules 2004 No. 269

4 Transitional

The amendments made by Schedule 1 apply to an application for a visa made on or after 27 August 2004.

Statutory Rules 2004 No. 390

4 Transitional

- (1) The amendments made by Schedule 1 (other than item [8]) apply in relation to:
 - (a) an application for a visa; or
 - (b) an application for approval as a standard business sponsor; or
 - (c) an application for approval of a nomination of a business activity;made on or after 2 April 2005.
- (2) The amendment made by item [8] of Schedule 1 does not apply in relation to a decision under regulation 1.20E of the *Migration Regulations 1994* as in force before 1 July 2003.

Table A

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- (3) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after the day on which Schedule 2 commences.
 - (4) The amendments made by Schedules 3 and 4 apply in relation to an application for a visa made on or after 2 April 2005.
 - (5) The amendments made by Schedule 5 apply in relation to:
 - (a) an application for a visa; and
 - (b) an application for approval as a sponsor; and
 - (c) a nomination in relation to an application for a visa; made on or after 2 April 2005.
 - (6) The amendments made by Schedule 5 apply in relation to the cancellation of a visa if the application for the visa was made on or after 2 April 2005.
 - (7) The amendments made by Schedule 6 apply in relation to an application for a visa made on or after 2 April 2005.
 - (8) The amendments made by Schedule 7 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 2004; or
 - (b) made on or after 1 July 2004.
 - (9) For an application for a visa mentioned in subregulation (8), the amendments made by Schedule 7 do not apply to the extent that, in the period commencing on 1 July 2004 and ending immediately before these Regulations are notified in the *Gazette*:
 - (a) the rights of a person (other than the Commonwealth or an authority of the Commonwealth) as at the date of notification would be affected so as to disadvantage that person; or
 - (b) liabilities would be imposed on a person (other than the Commonwealth) in respect of anything done or omitted to be done before the date of notification.

Table A

- (10) The amendments made by Part 1 of Schedule 8 (other than item [5]) apply in relation to an application for a visa:
 - (a) made on or after 27 August 2004 and before Schedule 8 commences, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before Schedule 8 commences; or
 - (b) made on or after the day on which Schedule 8 commences.
 - (11) The amendments made by item [5] of Part 1 of Schedule 8 and Part 2 of Schedule 8 apply in relation to an application for a visa made on or after the day on which Schedule 8 commences.
-

Select Legislative Instrument 2005 No. 54

4 Transitional

- (1) The amendments made by Schedule 1 apply in relation to:
 - (a) an application made on or after 2 April 2005 for approval of a nominated position; and
 - (b) an application for a visa made on or after 2 April 2005.
 - (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 2 April 2005.
 - (3) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 2 April 2005.
 - (4) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 2 April 2005.
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Select Legislative Instrument 2005 No. 133**4 Transitional**

- (1) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2005.
- (2) The amendments made by the items of Schedule 3 (other than item [1]) apply in relation to an application for a visa made on or after 1 July 2005.
- (3) The amendments made by items [1] to [4] of Schedule 4 apply in relation to:
 - (a) persons who enter Australia on or after 1 July 2005; and
 - (b) a person who:
 - (i) entered Australia before 1 July 2005; and
 - (ii) holds a Subclass 771 (Transit) visa, on and after 1 July 2005, for the purpose of signing on to a non-military ship as a member of the crew.
- (4) The amendment made by item [5] of Schedule 4 applies in relation to an application for a visa made on or after 1 July 2005.
- (5) The amendments made by Schedule 6 apply in relation to an application for a visa made on or after 1 July 2005.
- (6) The amendments made by Schedule 7 apply in relation to:
 - (a) an application for a visa made on or after 1 July 2005; and
 - (b) an application for registration as a migration agent under Part 3 of the *Migration Act 1958*:
 - (i) made, but not decided by the Migration Agents Registration Authority, before 1 July 2005; or
 - (ii) made on or after 1 July 2005.
- (7) The amendments made by Part 1 of Schedule 8 apply in relation to an application for a visa made on or after 1 July 2005.

Table A

- (8) The amendments made by Part 2 of Schedule 8 apply in relation to:
 - (a) the refund of a first instalment of visa application charge; or
 - (b) the cancellation of a visa; that occurs on or after 1 July 2005.
- (9) The amendments made by Schedule 9 apply in relation to an application for a visa made on or after 1 July 2005.
- (10) The amendments made by Schedule 10 apply in relation to an application for a visa made on or after 1 July 2005.
- (11) The amendments made by Schedule 11 apply:
 - (a) for items 1, 4, 7, 10, 13 and 16 of that Schedule — in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2005; and
 - (b) for the other items of that Schedule — in relation to an application for a visa made on or after 1 July 2005.
- (12) The amendments made by Schedule 12 apply in relation to an application for a visa made on or after 1 July 2005.
- (13) The amendments made by Part 1 of Schedule 13 apply:
 - (a) for items [3], [5], [7], [10], [15], [17], [19], [21] and [23] of that Part — in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2005; and
 - (b) for the other items of that Part — in relation to an application for a visa made on or after 1 July 2005.
- (14) The amendments made by Part 2 of Schedule 13 apply in relation to an application for a visa made on or after 1 July 2005.
- (15) The amendments made by Schedule 14 apply in relation to an application for a visa made on or after 1 July 2005.
- (16) The amendments made by Schedule 15 apply in relation to an application for a visa made on or after 1 July 2005.

Table A

- (17) The amendments made by Schedule 16 apply in relation to an application for a visa:
- (a) made on or after 1 July 2005; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2005.

Note Transitional arrangements are not necessary in relation to:

- (a) Schedule 1; and
- (b) item [1] of Schedule 3; and
- (c) Schedule 5; and
- (d) Schedule 17.

Select Legislative Instrument 2005 No. 134

5 Transitional

- (1) The amendments made by Schedule 1 apply in relation to an enrolment in a prescribed English course on or after 1 July 2005.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2005.
- (3) The amendments made by Schedule 3 apply in relation to an application for a visa:
 - (a) made on or after 1 July 2005; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2005.
- (4) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 July 2005.
- (5) The amendments made by Schedule 5 apply in relation to:
 - (a) a request for a personal identifier made in accordance with the *Migration Act 1958* on or after 1 July 2005; and
 - (b) the disclosure of identifying information in accordance with the *Migration Act 1958* on or after 1 July 2005.

Note Transitional arrangements are not necessary in relation to Schedule 6.

Table A

- (6) The amendments made by Schedules 7 to 13 apply in relation to:
 - (a) an application for a visa made on or after 1 July 2005; and
 - (b) a non-citizen in immigration clearance on or after 1 July 2005; and
 - (c) re-evidencing of a visa on or after 1 July 2005.
-

Select Legislative Instrument 2005 No. 221

4 Transitional — Schedule 1

The amendment made by Schedule 1 applies in relation to an application for a visa made on or after 27 August 2004.

Note There are no transitional arrangements for Schedule 2.

5 Transitional — Schedule 3

- (1) The amendments made by Part 1 of Schedule 3 apply in relation to:
 - (a) an application for a visa:
 - (i) made on or after 1 July 2005; and
 - (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before the day on which Schedule 3 commences; and
 - (b) an application for a visa made on or after the day on which Schedule 3 commences.
- (2) Despite the amendments made by Part 1 of Schedule 3, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa:
 - (a) made before 1 July 2005; and
 - (b) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 July 2005;as if those amendments had not been made.

Table A

- (3) The amendments made by Part 2 of Schedule 3 apply in relation to:
- (a) an application for a visa:
 - (i) made before the day on which Schedule 3 commences; and
 - (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before the day on which Schedule 3 commences; and
 - (b) an application for a visa made on or after the day on which Schedule 3 commences.

6 Transitional — Schedule 4

The amendments made by Schedule 4 apply in relation to:

- (a) an application for a visa:
 - (i) made before the day on which Schedule 4 commences; and
 - (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before the day on which Schedule 4 commences; and
- (b) an application for a visa made on or after the day on which Schedule 4 commences.

7 Transitional — Schedule 5

The amendment made by Schedule 5 applies in relation to all Student (Temporary) (Class TU) visas in force on or after the day on which Schedule 5 commences, whether or not a breach of condition 8202 occurred before the day on which Schedule 5 commences.

8 Transitional — Schedule 6

The amendments made by Schedule 6 apply in relation to an application for a visa made on or after 1 November 2005.

Table A

9 Transitional — Schedule 7

- (1) The amendments made by Schedule 7 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 7, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa:
 - (a) made before 1 November 2005; and
 - (b) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 November 2005;as if those amendments had not been made.

10 Transitional — Schedule 8

- (1) The amendments made by Schedule 8 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 8, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa:
 - (a) made before 1 November 2005; and
 - (b) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 November 2005;as if those amendments had not been made.

Note There are no transitional arrangements for Schedule 9.

11 Transitional — Schedule 10

The amendment made by Schedule 10 applies in relation to an applicant for a visa, described in subregulation 2.08C (1) of the *Migration Regulations 1994*:

- (a) whose application for a visa was:
 - (i) made before 1 November 2005; and

- (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 November 2005; or
- (b) whose application for a visa was made on or after 1 November 2005.

Select Legislative Instrument 2005 No. 240

4 Transitional — Schedule 1

- (1) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 1, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

5 Transitional — Schedule 2

- (1) The amendments made by Part 1 of Schedule 2 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Part 1 of Schedule 2, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.
- (3) The amendments made by Part 2 of 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 November 2005; or
 - (b) made on or after 1 November 2005.

Table A

6 Transitional — Schedule 3

- (1) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 3, the *Migration Regulations 1994*, as amended by items [1] and [71] of that Schedule, are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments (other than the amendment made by items [1] and [71]) had not been made.

7 Transitional — Schedule 4

- (1) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 4, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Note There are no transitional provisions for Schedule 5.

8 Transitional — Schedule 6

The amendments made by Schedule 6 apply in relation to an application for a visa made on or after 1 November 2005.

Note There are no transitional provisions for Schedule 7.

9 Transitional — Schedule 8

Applications for approval as approved professional development sponsor

- (1) If an application for approval as an approved professional development sponsor is made on or after 1 November 2005, the *Migration Regulations 1994*, as amended by Schedule 8 (the *new law*), apply in relation to the application.

Table A

- (2) If:
- (a) an application for approval as an approved professional development sponsor is made before 1 November 2005; and
 - (b) the application is not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 November 2005;
- despite the amendments of the *Migration Regulations 1994* made by Schedule 8, the *Migration Regulations 1994*, as in force immediately before the commencement of this item (the *old law*), are taken to apply in relation to the application, as if those amendments had not been made.

Applications for visas

- (3) If:
- (a) an application for a visa is made on or after 1 November 2005; and
 - (b) the application is made in respect of a professional development program being conducted by an approved professional development sponsor; and
 - (c) the sponsor is approved under the new law;
- the new law applies in relation to the application for a visa.
- (4) Despite the amendments of the *Migration Regulations 1994* made by Schedule 8, if:
- (a) the application is made in respect of a professional development program being conducted by an approved professional development sponsor; and
 - (b) the sponsor is approved under the old law;
- the old law is taken to apply in relation to the application for a visa, as if those amendments had not been made.

10 Transitional — Schedule 9

- (1) The amendments made by Schedule 9 apply in relation to an application for a visa made on or after 1 November 2005.

Table A

- (2) Despite the amendments made by Schedule 9, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

11 Transitional — Schedule 10

- (1) The amendments made by Schedule 10 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 10, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Note There are no transitional provisions for Schedule 11.

12 Transitional — Schedule 12

- (1) The amendments made by Schedule 12 apply in relation to an application for a visa made on or after 1 November 2005.
- (2) Despite the amendments made by Schedule 12, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 2005, as if those amendments had not been made.

Select Legislative Instrument 2005 No. 275

4 Transitional — Schedule 1

The amendments made by Schedule 1 apply to:

- (a) an application for a visa:
- (i) made before 1 December 2005; and

Table A

- (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 December 2005; and
- (b) an application for a visa made on or after 1 December 2005.

5 Transitional — Schedule 2

- (1) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 December 2005.
- (2) Despite the amendments made by Schedule 2, the *Migration Regulations 1994* are taken to apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 December 2005, as if those amendments had not been made.

6 Transitional — Schedule 3

- (1) The amendment made by item 1 of Schedule 3 applies in relation to a visa granted:
 - (a) before 1 December 2005; or
 - (b) on or after 1 December 2005.
- (2) The amendment made by item 2 of Schedule 3 applies in relation to:
 - (a) an application for a visa:
 - (i) made before 1 December 2005; and
 - (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 December 2005; and
 - (b) an application for a visa made on or after 1 December 2005.

Table A

Select Legislative Instrument 2005 No. 339

4 Transitional

- (1) The amendments made by Schedules 1 and 2 apply in relation to an application for a visa made on or after these Regulations commence.
- (2) The amendments made by Schedule 3 apply in relation to:
 - (a) an application for a visa made on or after 1 November 2005 that has not been finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before these Regulations commence; and
 - (b) an application for a visa made on or after these Regulations commence.

Select Legislative Instrument 2006 No. 10

4 Transitional

- (1) The amendments made by items [1], [2] and [3] of Schedule 1 apply in relation to the cancellation of a visa on or after 1 March 2006.
- (2) The amendments made by the other items of Schedule 1 apply in relation to an application for a visa:
 - (a) made on or after 1 March 2006; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 March 2006.
- (3) The amendments made by Schedule 2 apply in relation to an application for a Subclass 462 (Work and Holiday) visa made on or after 1 March 2006.
- (4) The amendments made by Schedule 3 apply in relation to a requirement under subsection 188 (4) of the Act made by an officer on or after 1 March 2006.

Note There are no transitional arrangements relating to Schedule 4.

- (5) The amendments made by Schedule 5 apply in relation to an application for a visa made on or after 1 March 2006.
-

Select Legislative Instrument 2006 No. 123

4 Transitional

- (1) The amendments made by items [6] to [15] of Schedule 1 apply in relation to an application for a visa made on or after 1 July 2006.

Note There are no transitional arrangements for items [1] to [5] of Schedule 1.

- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2006.

- (3) The amendment made by item [1] of Schedule 3 applies in relation to a visa application made on or after 1 July 2006.

- (4) The amendments made by items [2] and [3] of Schedule 3 apply in relation to a visa application:

- (a) made on or after 1 July 2006; or
(b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2006.

- (5) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 July 2006.

- (6) The amendments made by Schedule 6 apply in relation to an application for a visa made on or after 1 July 2006.

Note There are no transitional arrangements for Schedules 5 and 7.

Table A

Select Legislative Instrument 2006 No. 133

4 Transitional

- (1) The amendment made by item [1] of Schedule 1 applies in relation to the nomination of an activity made on or after 1 July 2006.
 - (2) The amendments made by items [2] and [3] of Schedule 1 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 2006; or
 - (b) made on or after 1 July 2006.
-

Select Legislative Instrument 2006 No. 159

4 Transitional

- (1) The amendments made by Schedule 1 apply in relation to charges and fees payable under the *Migration Regulations 1994* on or after 1 July 2006.
- (2) The amendments made by Part 1 of Schedule 2 apply in relation to an application for a visa made on or after 1 July 2006.
- (3) The amendments made by Part 2 of 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 2006; or
 - (b) made on or after 1 July 2006.
- (4) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 1 July 2006.

- (5) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 July 2006.

Select Legislative Instrument 2006 No. 238

4 Transitional

Note There are no transitional arrangements for Schedules 1, 2 and 3.

- (1) The amendment made by Schedule 4 applies in relation to an application for a visa made on or after 1 October 2006.
- (2) The amendments made by Schedule 5 apply in relation to an application for a visa made on or after 1 October 2006.

Select Legislative Instrument 2006 No. 250

4 Transitional

- (1) The amendments made by Schedule 1 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 October 2006; or
 - (b) made on or after 1 October 2006.
- (2) Subject to subregulation (3), the amendments made by Schedule 2 apply only in relation to an application for a visa made on or after 1 October 2006.
- (3) The amendments made by items [50], [56] and [62] of Schedule 2 apply also in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 October 2006.
- (4) The amendments made by Schedule 3 apply in relation to an application for a visa:

Table A

- (a) made but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 October 2006; or
 - (b) made on or after 1 October 2006.
- (5) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 October 2006.

5 Status of Gazette Notices

Despite the amendment of a provision of the *Migration Regulations 1994* specified in item [7] of Schedule 1, a Gazette Notice that is:

- (a) made for that provision; and
- (b) in effect immediately before 1 October 2006;

is taken to continue in effect, on and after 1 October 2006, as if it were an instrument made for the provision as amended by item [7].

Select Legislative Instrument 2006 No. 354

4 Transitional

- (1) The amendments made by items [1] to [7] of Schedule 1 apply in relation to an application for a visa made on or after 1 January 2007.
 - (2) The amendment made by item [8] of Schedule 1 applies in relation to an assessment under subsection 93 (1) of the *Migration Act 1958*, made on or after 1 January 2007.
-

Select Legislative Instrument 2007 No. 69

3 Amendment of Migration Regulations 1994 — Schedule 1

- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 23 April 2007.

Table A**4 Amendment of *Migration Regulations 1994* — Schedule 2**

- (2) The amendment made by item [1] of Schedule 2 does not apply in relation to a person who:
- (a) entered Australia before 23 April 2007; and
 - (b) has not left Australia.
- (3) If a person mentioned in subregulation (2) leaves Australia, the amendment made by item [1] of Schedule 2 applies in relation to the person when the person leaves Australia.

5 Amendment of *Migration Regulations 1994* — Schedule 3

- (2) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 23 April 2007.

7 Amendment of *Migration Regulations 1994* — Schedule 5

- (2) The amendment made by Schedule 5 applies in relation to the making or consideration of an application for a skills assessment on or after 1 July 2007.

Select Legislative Instrument 2007 No. 87**4 Transitional**

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after the commencement of these Regulations.

Table A

Select Legislative Instrument 2007 No. 129

4 Transitional

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after the commencement of these Regulations.

Select Legislative Instrument 2007 No. 166

**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 July 2007.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2007.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (2) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 1 July 2007.

**6 Amendment of *Migration Regulations 1994* —
Schedule 4**

- (2) The amendment made by item [1] of Schedule 4 applies in relation to an application:
- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 July 2007; or
 - (b) made on or after 1 July 2007.

Table A

- (3) The amendment made by item [2] of Schedule 4 applies in relation to a person who, on or after 1 July 2007, is in detention under any of the following Acts:
- (a) the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (b) the *Fisheries Management Act 1991*;
 - (c) the *Torres Strait Fisheries Act 1984*.
- (IA) Maritime Crew (Temporary) (Class ZM);

Select Legislative Instrument 2007 No. 190

3 Amendment of *Migration Regulations 1994* — Schedule 1

- (2) The amendments made by Schedule 1 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 2007; or
 - (b) made on or after 1 July 2007.

4 Amendment of *Migration Regulations 1994* — Schedule 2

- (2) The amendments made by items [1], [4], [5], [6], [7], [8], [9] and [10] of Schedule 2 apply in relation to an application for a Special Category (Temporary) (Class TY) visa made on or after 1 July 2007.
- (3) The amendments made by items [2], [3] and [11] of Schedule 2 apply in relation to a person arriving in Australia on or after 1 July 2007.

5 Amendment of *Migration Regulations 1994* — Schedule 3

- (2) The amendment made by Schedule 3 applies in relation to an application for a visa:

Table A

- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2007; or
 - (b) made on or after 1 July 2007.
- (3) The amendment made by Schedule 3 also applies in relation to a visa granted before 1 July 2007, but only in relation to a breach of a visa condition that occurred on or after 1 July 2007.

6 Amendment of *Migration Regulations 1994* — Schedule 4

- (2) The amendments made by Schedule 4 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 2007; or
 - (b) made on or after 1 July 2007.
- (3) If a visa to which condition 8206 applied was granted before 1 July 2007, condition 8206 is taken not to apply in relation to that visa on and after 1 July 2007.

7 Amendment of *Migration Regulations 1994* — Schedule 5

- (2) The amendments made by Schedule 5 apply in relation to an application for a visa made on or after 1 July 2007.
- (3) Despite the amendment of a provision of the *Migration Regulations 1994* mentioned in item [11] of Schedule 5, a Gazette Notice that was:
- (a) made for that provision; and
 - (b) in effect immediately before 1 July 2007;
- is taken to continue in effect, on and after 1 July 2007, as if it were an instrument made for the provision as amended by item [11].

Table A**8 Amendment of *Migration Regulations 1994* — Schedule 6**

- (2) The amendments made by Part 1 of Schedule 6 apply in relation to an application for a visa made on or after 1 July 2007.
- (3) The amendments made by Part 2 of Schedule 6 apply in relation to:
 - (a) an application for approval as a standard business sponsor:
 - (i) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2007; or
 - (ii) made on or after 1 July 2007; and
 - (b) a nomination of a business activity:
 - (i) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2007; or
 - (ii) made on or after 1 July 2007; and
 - (c) an application for a visa:
 - (i) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2007; or
 - (ii) made on or after 1 July 2007.

Select Legislative Instrument 2007 No. 191**3 Amendment of *Migration Regulations 1994***

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to a person who proposes to enter Australia on or after 1 July 2007.

Table A

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (2) The amendments made by Schedule 2 apply in relation to a person who proposes to enter Australia on or after 1 January 2008.
-

Select Legislative Instrument 2007 No. 257

3 Amendment of *Migration Regulations 1994*

- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 September 2007.

4 Amendment of *Migration Regulations 1994*

- (2) 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 January 2008; or
 - (b) made on or after 1 January 2008.
-

Select Legislative Instrument 2007 No. 272

4 Transitional

- (1) The amendments made by items [1], [2], [8], [9], [12] and [13] of Schedule 1 apply in relation to:
- (a) an application for approval as an approved trade skills training sponsor made on or after the date of commencement of these Regulations; and
 - (b) an application for approval as an approved trade skills training sponsor made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before the date of commencement of these Regulations.

Table A

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- (2) Despite the amendments made by items [1], [2] (except so far as it omits regulations 1.20UK, 1.20UL and 1.20UM of the *Migration Regulations 1994*), [9] and [13] of Schedule 1, the *Migration Regulations 1994* are taken to apply in relation to an approved trade skills training sponsor or former approved trade skills training sponsor of the holder of a Subclass 471 (Trade Skills Training) visa, as if those amendments had not been made.
- (3) The amendments made by items [3], [6], [7], [10], [11] and [14] to [23] of Schedule 1 apply in relation to:
- (a) an application for a visa made on or after the date of commencement of these Regulations; and
 - (b) an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before the date of commencement of these Regulations.
- (4) Despite the amendments made by items [6], [22] (except so far as it omits Divisions 471.2, 471.3 and 471.4 of the *Migration Regulations 1994*) and [23] of Schedule 1, the *Migration Regulations 1994* are taken to apply in relation to an existing holder of a Subclass 471 (Trade Skills Training) visa as if those amendments had not been made.

Note There are no transitional provisions for the amendments made by items 4 and 5 of Schedule 1.

Select Legislative Instrument 2007 No. 273

4 Transitional

- (1) The amendments made by items [3] to [8] of Schedule 1 apply in relation to the nomination of an activity:
- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 10 September 2007; or
 - (b) made on or after 10 September 2007.
- (2) The amendments made by items [10] to [14] of Schedule 1 apply in relation to an application for a visa:

Table A

- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 10 September 2007; or
 - (b) made on or after 10 September 2007.
-

Select Legislative Instrument 2007 No. 274

4 Transitional

The amendments made by Schedule 1 apply in relation to an application for:

- (a) a Contributory Parent (Migrant) (Class CA) visa; or
 - (b) a Contributory Aged Parent (Residence) (Class DG) visa; made on or after the commencement of these Regulations.
-

Select Legislative Instrument 2007 No. 275

4 Transitional

- (1) The amendments made by items [1] and [2] of Schedule 1 apply in relation to an application for approval as a sponsor made on or after 1 October 2007.
 - (2) The amendments made by items [3] to [5] of Schedule 1 apply in relation to the nomination of an activity made on or after 1 October 2007.
 - (3) The amendments made by items [6] and [7] of Schedule 1 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 October 2007; or
 - (b) made on or after 1 October 2007.
-

Select Legislative Instrument 2007 No. 314**4 Transitional**

- (1) Subject to subregulations (2) and (3), the amendments made by Schedule 1 apply in relation to an application for a visa made on or after 15 October 2007.
- (2) The amendments made by items [1] to [314] of Schedule 1 do not apply in relation to an application for a visa made by a person if:
 - (a) the person is an additional applicant (within the meaning of regulation 2.08A of the *Migration Regulations 1994*) of an original applicant (within the meaning of that regulation) who made an application for a visa before 15 October 2007; and
 - (b) the application of the additional applicant is taken to have been made, in accordance with paragraph 2.08A (1) (f) of the *Migration Regulations 1994*, on or after 15 October 2007.
- (3) The amendments made by items [1] to [314] of Schedule 1 do not apply in relation to an application for a visa made by a person if:
 - (a) the person is a dependent child (within the meaning of regulation 2.08B of the *Migration Regulations 1994*) of an original applicant (within the meaning of that regulation) who made an application for a visa before 15 October 2007; and
 - (b) the application of the dependent child is taken to have been made, in accordance with paragraph 2.08B (1) (f) of the *Migration Regulations 1994*, on or after 15 October 2007.

Table A

Select Legislative Instrument 2007 No. 315

3 Amendment of *Migration Regulations 1994*

- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 15 October 2007.

4 Amendment of *Migration Regulations 1994*

- (2) The amendment made by Schedule 2 applies in relation to:
- (a) an application for a Protection (Class XA) visa made on or after 15 October 2007; and
 - (b) an application for a Protection (Class XA) visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 15 October 2007.

5 Amendment of *Migration Regulations 1994*

- (2) The amendment made by Schedule 3 applies to an application for a visa made on or after 15 October 2007.

6 Amendment of the *Migration Regulations 1994*

- (2) The amendment made by Schedule 4 applies to an application for a visa made on or after 15 October 2007.

7 Amendment of the *Migration Regulations 1994*

- (2) The amendment made by Schedule 5 applies in relation to a person who, on or after 15 October 2007, is in detention under one of the following Acts:
- (a) the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (b) the *Fisheries Management Act 1991*;
 - (c) the *Torres Strait Fisheries Act 1984*.

Select Legislative Instrument 2007 No. 356
**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

Schedule 1 amends the *Migration Regulations 1994*, as amended by the *Migration Amendment Regulations 2007* (No. 9).

Note There are no transitional provisions relevant to the amendments made by Schedule 1.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendment made by Schedule 2 applies in relation to:
 - (a) an application for a visa:
 - (i) made in the period starting on 15 October 2007 and ending at the end of 21 October 2007; but
 - (ii) not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) on 22 October 2007; and
 - (b) an application for a visa made on or after 22 October 2007.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by items [1], [2] and [3] of Schedule 3 apply in relation to an application for a visa made on or after 31 October 2007.
- (3) The amendments made by items [4] and [5] of Schedule 3 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 31 October 2007; or
 - (b) made on or after 31 October 2007.

Table A

**6 Amendment of *Migration Regulations 1994* —
Schedule 4**

- (1) Schedule 4 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 4 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 January 2008; or
 - (b) made on or after 1 January 2008.

Select Legislative Instrument 2008 No. 33

4 Transitional

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after the date on which these Regulations commence.

Select Legislative Instrument 2008 No. 56

**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 26 April 2008.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 26 April 2008.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
 - (2) The amendments made by Schedule 3 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 26 April 2008; or
 - (b) made on or after 26 April 2008.
-

Select Legislative Instrument 2008 No. 91**3 Amendment of *Migration Regulations 1994***

- (1) Schedules 1 and 2 amend the *Migration Regulations 1994*.
 - (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 July 2008.
 - (3) The amendments made by Schedule 2 apply in relation to a matter for which an obligation to pay a fee is incurred on or after 1 July 2008.
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Select Legislative Instrument 2008 No. 166**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 9 August 2008.

Table A

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 2 apply in relation to:
 - (a) an application for a visa made on or after 9 August 2008;
and
 - (b) an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 9 August 2008.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 9 August 2008.

**6 Amendment of *Migration Regulations 1994* —
Schedule 4**

- (1) Schedule 4 amends the *Migration Regulations 1994*.
 - (2) The amendments made by Schedule 4 apply in relation to:
 - (a) an application for a visa made on or after 9 August 2008;
and
 - (b) an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 9 August 2008.
-

Select Legislative Instrument 2008 No. 167**4 Application of amendments**

The amendments made by Schedule 1 apply in relation to a person who enters Australia on or after the day on which these Regulations commence.

Select Legislative Instrument 2008 No. 168**4 Transitional**

- (1) The amendments made by Schedule 1 apply in relation to an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 9 August 2008.

Note Applications for certain kinds of visas made, but not finally determined, before 9 August 2008, may be taken to be valid applications for Resolution of Status (Class CD) visas — see regulation 2.07AQ of the *Migration Regulations 1994*.

- (2) However, those amendments do not apply in relation to an application for:
- (a) a Resolution of Status (Residence) (Class BL) visa; or
 - (b) a Return Pending (Temporary) (Class VA) visa;
- that was made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 9 August 2008.
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Table A

Select Legislative Instrument 2008 No. 189

**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to a decision, relating to sponsorship, made on or after 9 August 2008.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 19 September 2008.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 27 October 2008.

Select Legislative Instrument 2008 No. 205

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by items [1], [2], [16] and [17] of Schedule 2 apply in relation to an application for a Subclass 462 (Work and Holiday) visa made on or after 27 October 2008.

Table A

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- (3) The amendments made by items [3] to [15] of Schedule 2 apply in relation to an application for a Subclass 417 (Working Holiday) visa made on or after 27 October 2008.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 27 October 2008.

**6 Amendment of *Migration Regulations 1994* —
Schedule 4**

- (1) Schedule 4 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 4 apply in relation to:
- (a) an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 27 October 2008; and
 - (b) an application for a visa made on or after 27 October 2008.

**7 Amendment of *Migration Regulations 1994* —
Schedule 5**

- (1) Schedule 5 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 5 apply in relation to an application for a visa made on or after 27 October 2008
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Table A

Select Legislative Instrument 2008 No. 237

**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendment made by Schedule 1 applies in relation to a Resolution of Status (Class CD) visa held on or after 9 August 2008.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 5 December 2008.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 3 apply in relation to a document given, dispatched or transmitted on or after 5 December 2008.

**6 Amendment of *Migration Regulations 1994* —
Schedule 4**

- (1) Schedule 4 amends the *Migration Regulations 1994*.
 - (2) The amendment made by Schedule 4 applies in relation to an application for a visa made on or after 5 December 2008.
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Select Legislative Instrument 2009 No. 7**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
 - (2) The amendments made by Schedule 2 apply in relation to an offence against subsection 245N (2) of the *Migration Act 1958* which is alleged to have been committed on or after 15 March 2009.
-

Select Legislative Instrument 2009 No. 22**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
 - (2) The amendments made by Schedule 2 apply in relation to:
 - (a) an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), on or after 28 March 2009; and
 - (b) an application for a visa made on or after 28 March 2009.
-

Select Legislative Instrument 2009 No. 42**3 Amendment of *Migration Regulations 1994***

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to:
 - (a) an application for a visa made on or after 28 March 2009; and

Table A

- (b) an application for a visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 28 March 2009.

Select Legislative Instrument 2009 No. 67

3 Amendment of *Migration Regulations 1994*

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to an application for a visa made on or after 14 April 2009.

Select Legislative Instrument 2009 No. 84

4 Transitional

The amendments made by Schedule 1 apply in relation to an application for a visa made on or after the day on which these Regulations commence.

Select Legislative Instrument 2009 No. 115

3 Amendment of *Migration Regulations 1994*

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 1 apply in relation to:
- (a) a work agreement:
- (i) entered into before 14 September 2009 and continuing in effect on 14 September 2009; or
- (ii) entered into on or after 14 September 2009; and

Table A

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- (b) an application for approval as a sponsor:
 - (i) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 14 September 2009; or
 - (ii) made on or after 14 September 2009; and
 - (c) an application for approval of a nomination of an activity:
 - (i) made under regulation 1.20G or 1.20GA of the *Migration Regulations 1994* as in force immediately before 14 September 2009, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 14 September 2009; or
 - (ii) made on or after 14 September 2009; and
 - (d) an application for a variation of a term of approval of sponsorship made on or after 14 September 2009.
- (3) If item [45] or [46] of Schedule 1 to the *Migration Legislation Amendment (Worker Protection) Act 2008* applies to a person, a sponsorship obligation imposed by the amendments made by Schedule 1 starts to apply to the person on the later of:
 - (a) the date on which the obligation commences for the person; and
 - (b) 14 September 2009.
 - (4) The amendments made by items [10] to [21] of Schedule 1 apply in relation to a decision subject to merit review made by the Minister on or after 14 September 2009.

Note Part 2 of Schedule 1 to the *Migration Legislation Amendment (Worker Protection) Act 2008* provides transitional matters relevant to the amendments made by that Schedule. The transitional matters include matters relevant to persons who were, immediately before 14 September 2009, approved sponsors, approved professional development sponsors, standard business sponsors and former standard business sponsors.

Table A

Select Legislative Instrument 2009 No. 116

**3 Amendment of *Migration Regulations 1994* —
Schedule 1**

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) The amendment made by Schedule 1 applies in relation to an application for approval as a standard business sponsor:
 - (a) made on or after 27 June 2009; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 27 June 2009.

**4 Amendment of *Migration Regulations 1994* —
Schedule 2**

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2009.

**5 Amendment of *Migration Regulations 1994* —
Schedule 3**

Schedule 3 amends the *Migration Regulations 1994*.

Note There are no transitional arrangements for this Schedule.

**6 Amendment of *Migration Regulations 1994* —
Schedule 4**

- (1) Schedule 4 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 4 apply in relation to an application for a visa made on or after 1 July 2009.

**7 Amendment of *Migration Regulations 1994* —
Schedule 5**

- (1) Schedule 5 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 5 apply in relation to an application for a visa:
 - (a) made on or after 1 July 2009; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2009.

**8 Amendment of *Migration Regulations 1994* —
Schedule 6**

- (1) Schedule 6 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 6 apply in relation to a matter for which an obligation to pay a fee is incurred on or after 1 July 2009.

**9 Amendment of *Migration Regulations 1994* —
Schedule 7**

- (1) Schedule 7 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 7 apply in relation to an application for a visa:
 - (a) made on or after 1 July 2009; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2009.

**10 Amendment of *Migration Regulations 1994* —
Schedule 8**

- (1) Schedule 8 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 8 apply in relation to:
 - (a) an application for a visa made on or after 1 July 2009; and

Table A

(b) an application for a visa (other than a Witness Protection (Trafficking) (Temporary) (Class UM) visa) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2009.

(3) The amendments made by Schedule 8 do not apply in relation to an application for a Witness Protection (Trafficking) (Temporary) (Class UM) visa made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2009.

**11 Amendment of *Migration Regulations 1994* —
Schedule 9**

- (1) Schedule 9 amends the *Migration Regulations 1994*.
- (2) The amendment made by Schedule 9 applies in relation to an application for a visa made on or after 1 July 2009.

**12 Amendment of *Migration Regulations 1994* —
Schedule 10**

- (1) Schedule 10 amends the *Migration Regulations 1994*.
- (2) The amendment made by Schedule 10 applies in relation to an application for a Subclass 462 (Work and Holiday) visa:
 - (a) made on or after 1 July 2009; or
 - (b) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2009.

Select Legislative Instrument 2009 No. 143**4 Existing applications for bridging visas**

The amendments made by these Regulations do not apply in relation to an application for a bridging visa made before 1 July 2009.

Select Legislative Instrument 2009 No. 144**3 Amendment of *Migration Regulations 1994* — Schedule 1**

- (1) Schedule 1 amends the *Migration Regulations 1994*.
- (2) Subject to this regulation, the amendments made by Schedule 1 apply in relation to an application for a visa made on or after 1 July 2009.
- (3) Despite the amendments made by Schedule 1, if, immediately before 1 July 2009, a person was an interdependent partner (within the meaning of that term in the *Migration Regulations 1994* as in force at that time), the person is taken, on and after 1 July 2009, to be a de facto partner (within the meaning given by section 5CB of the *Migration Act 1958*) for the purposes of regulation 1.20J.
- (4) Despite the amendments made by Schedule 1, if, immediately before 1 July 2009, a person was a spouse (within the meaning of that word in the *Migration Regulations 1994* as in force at that time), the person is taken, on and after 1 July 2009, to be a spouse (within the meaning given by section 5F of the *Migration Act 1958*) for the purposes of regulation 1.20J.

Table A

- (5) The amendments made by Schedule 1 do not apply in relation to an application (the ***additional application***) for a visa by a child under regulation 2.08 of the *Migration Regulations 1994* if:
- (a) the non-citizen mentioned in paragraph 2.08 (1) (a) of those Regulations applied for a visa before 1 July 2009; and
 - (b) the non-citizen's application was not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 July 2009; and
 - (c) the child is taken to have made the additional application on or after 1 July 2009 because the child was born on or after 1 July 2009.
- (6) The amendments made by Schedule 1 do not apply in relation to an application (the ***additional application***) for a visa by a contributory parent newborn child under subregulation 2.08AA (2) of the *Migration Regulations 1994* if:
- (a) the parent of the contributory parent newborn child applied for a visa mentioned in paragraph 2.08AA (2) (b) of those Regulations before 1 July 2009; and
 - (b) either:
 - (i) the parent was granted the visa before 1 July 2009; or
 - (ii) the parent's application was not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 July 2009; and
 - (c) the contributory parent newborn child is taken to have made the additional application after 1 July 2009 because either:
 - (i) the contributory parent newborn child was granted the temporary visa mentioned in paragraph 2.08AA (2) (a) of those Regulations after 1 July 2009; or
 - (ii) the contributory parent newborn child was immigration cleared after 1 July 2009.

Table A

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- (7) The amendments made by Schedule 1 do not apply in relation to an application for a visa (the ***additional application***) made by a person if:
- (a) the person is added as an additional applicant (within the meaning of regulation 2.08A of the *Migration Regulations 1994*) to an application for a visa (the ***existing application***) made by the original applicant (within the meaning of that regulation); and
 - (b) the additional applicant is taken, under paragraph 2.08A (1) (e) of those Regulations, to have applied for a visa of the same class as that applied for by the original applicant; and
 - (c) the existing application was made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2009; and
 - (d) the additional application is taken to have been made on or after 1 July 2009 in accordance with paragraph 2.08A (1) (f) of those Regulations.
- (8) The amendments made by Schedule 1 do not apply in relation to an application for a visa (the ***additional application***) made by a person if:
- (a) the person is added as a dependent child (within the meaning of regulation 2.08B of the *Migration Regulations 1994*) to an application for a visa (the ***existing application***) made by the original applicant (within the meaning of that regulation); and
 - (b) the dependent child is taken, under paragraph 2.08B (1) (e) of those Regulations, to have applied for a visa of the same class as that applied for by the original applicant; and
 - (c) the existing application was made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 July 2009; and
 - (d) the additional application is taken to have been made on or after 1 July 2009 in accordance with paragraph 2.08B (1) (f) of those Regulations.

Table A

- (9) Despite the amendments made by Schedule 1, if:
- (a) a person applied before 1 July 2009 for 1 of the following visas (the *relevant visa*):
 - (i) a Subclass 100 (Spouse) visa; or
 - (ii) a Subclass 110 (Interdependency) visa; or
 - (iii) a Subclass 801 (Spouse) visa; or
 - (iv) a Subclass 814 (Interdependency) visa; and
 - (b) the application was not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before 1 July 2009; and
 - (c) a holder of a Subclass 445 (Dependent Child) visa granted in relation to the person mentioned in paragraph (a) wishes to apply for the relevant visa;
- the holder of the Subclass 445 (Dependent Child) visa may apply for the relevant visa, in accordance with the *Migration Regulations 1994* as in force immediately before 1 July 2009, on the basis of satisfying the secondary criteria for the grant of the relevant visa.
- (10) Despite the amendment of subregulation 1.09A (1) of the *Migration Regulations 1994* made by Schedule 1:
- (a) a person:
 - (i) who was under 18 immediately before 1 July 2009; and
 - (ii) to whom paragraph 2.43 (1) (h) of those Regulations applied immediately before 1 July 2009; and
 - (iii) who was a spouse or former spouse, within the meaning of *spouse* in paragraph 1.15A (1) (b) of those Regulations as in force immediately before 1 July 2009;

is taken to continue to be a spouse or former spouse within that meaning for the purposes of paragraph 2.43 (1) (h); and
 - (b) the definition of *spouse* in paragraph 1.15A (1) (b) of those Regulations, as in force immediately before 1 July 2009, is taken to continue to apply in relation to the person for the purposes of paragraph 2.43 (1) (h); and

Table A

- (c) paragraph (a) ceases to apply in relation to the spouse or former spouse when he or she turns 18.

Note Regulation 1.09A of the *Migration Regulations 1994* deals with de facto partners and de facto relationships. Before 1 July 2009, it dealt with interdependent relationships.

- (11) Subject to subregulation (4), if:
- (a) immediately before 1 July 2009, a person was a spouse within the meaning of that word in regulation 1.15A of the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of **spouse** in section 5F of the *Migration Act 1958* as in force on 1 July 2009;
- the person is taken to be a spouse within the meaning given by section 5F of that Act.

- (12) Subject to subregulation (4), if:
- (a) immediately before 1 July 2009, a person was a spouse within the meaning of that word in regulation 1.15A of the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of **de facto partner** in section 5CB of the *Migration Act 1958* as in force on 1 July 2009;
- the person is taken to be a de facto partner within the meaning given by section 5CB of that Act.

- (13) If:
- (a) immediately before 1 July 2009, a person was a sponsoring spouse within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of **sponsoring partner** in those Regulations as in force on 1 July 2009;
- the person is taken to be a sponsoring partner within the meaning given by those Regulations.

Table A

- (14) Subject to subregulation (3), if:
- (a) immediately before 1 July 2009, a person was an interdependent partner within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***de facto partner*** in section 5CB of the *Migration Act 1958* as in force on 1 July 2009;
- the person is taken to be a de facto partner within the meaning given by section 5CB of that Act.
- (15) If:
- (a) immediately before 1 July 2009, a person was a dependent child within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***dependent child*** in those Regulations as in force on 1 July 2009;
- the person is taken to be a dependent child within the meaning given by those Regulations.
- (16) If:
- (a) immediately before 1 July 2009, a person was an aged dependent relative within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***aged dependent relative*** in those Regulations as in force on 1 July 2009;
- the person is taken to be an aged dependent relative within the meaning given by those Regulations.
- (17) If:
- (a) immediately before 1 July 2009, a person was a close relative within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***close relative*** in those Regulations as in force on 1 July 2009;
- the person is taken to be a close relative within the meaning given by those Regulations.

Table A

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- (18) If:
- (a) immediately before 1 July 2009, a person was a contributory parent newborn child within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***contributory parent newborn child*** in those Regulations as in force on 1 July 2009;
- the person is taken to be a contributory parent newborn child within the meaning given by those Regulations.
- (19) If:
- (a) immediately before 1 July 2009, a person was a foreign armed forces dependent within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***foreign armed forces dependent*** in those Regulations as in force on 1 July 2009;
- the person is taken to be a foreign armed forces dependent within the meaning given by those Regulations.
- (20) If:
- (a) immediately before 1 July 2009, a person was in a long-term spouse relationship within the meaning of that term in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***long-term partner relationship*** in those Regulations as in force on 1 July 2009;
- the person is taken to be in a long-term partner relationship within the meaning given by those Regulations.
- (21) If:
- (a) immediately before 1 July 2009, a person was a parent within the meaning of that word in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of ***parent*** in subsection 5 (1) of the *Migration Act 1958* as in force on 1 July 2009;

Table A

the person is taken to be a parent within the meaning given by subsection 5 (1) of that Act.

- (22) If:
- (a) immediately before 1 July 2009, a person was a step-child within the meaning of that word in the *Migration Regulations 1994* as in force at that time; and
 - (b) the person meets the requirements of the definition of *step-child* in those Regulations as in force on 1 July 2009;

the person is taken to be a step-child within the meaning given by those Regulations.

4 Amendment of *Migration Regulations 1994* — Schedule 2

- (1) Schedule 2 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 2 apply in relation to an application for a visa made on or after 1 July 2009.

5 Amendment of *Migration Regulations 1994* — Schedule 3

- (1) Schedule 3 amends the *Migration Regulations 1994*.
- (2) The amendments made by Schedule 3 apply in relation to an application for a visa made on or after 1 January 2010.

Table B Modifications

Statutory Rules 1996 No. 276

Schedule 2

(regulation 19)

**Modifications of Schedule 2 to the Migration Regulations
(as in force on 30 September 1996) in relation to certain
applications made during October 1996**

1. Part 100 (Spouse)

1.1 Clause 100.11 (definition of “**intended spouse**”):

Omit the definition, substitute:

“**intended spouse**” means the person referred to in subparagraph 100.211 (3) (a) (i), (ii), (iii) or (iv).”.

1.2 Subclause 100.211 (2):

Add at the end:

“; or (d) a person who, on entry to Australia, will be the holder of a special category visa and intends to be usually resident in Australia.”.

1.3 Subparagraph 100.211 (3) (a) (iii):

Omit “; and”, substitute “; or”.

1.4 Paragraph 100.211 (3) (a):

Add at the end:

“(iv) a person who, on entry to Australia, will be the holder of a special category visa and intends to be usually resident in Australia; and”.

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1.5 Subclause 100.224 (1):

Omit “the spouse of the Australian citizen, Australian permanent resident or eligible New Zealand citizen”, substitute “the spouse of the person referred to in paragraph 100.211 (2) (a), (b), (c) or (d)”.

Schedule 3

(regulation 21)

Modifications of Schedule 2 to the Migration Regulations (as in force on 6 November 1996) in relation to certain applications made on or after 1 November 1996 and before 7 November 1996

1. Part 309 (Spouse (Provisional))

1.1 Clause 309.111 (definition of “**intended spouse**”):

Omit the definition, substitute:

“**intended spouse**” means the person referred to in subparagraph 309.211 (3) (a) (i), (ii), (iii) or (iv);”.

1.2 Subclauses 309.211 (2), (2A) and (3):

Omit the subclauses, substitute:

“(2) The applicant meets the requirements of this subclause if the applicant is the spouse of:

- (a) an Australian citizen; or
- (b) an Australian permanent resident; or
- (c) an eligible New Zealand citizen; or
- (d) a person who, on entry to Australia, will be the holder of a special category visa and intends to be usually resident in Australia.

“(3) The applicant meets the requirements of this subclause if:

- (a) the applicant intends to marry:
 - (i) an Australian citizen; or
 - (ii) an Australian permanent resident; or
 - (iii) an eligible New Zealand citizen; or

Table B

- (iv) a person who, on entry to Australia, will be the holder of a special category visa and intends to be usually resident in Australia; and
- (b) the intended marriage will, if it takes place, be a valid marriage for the purposes of section 12 of the Act.”

1.3 Subparagraph 309.213 (1) (b) (ii):

Omit the subparagraph, substitute:

- “(ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.”

1.4 Subparagraph 309.213 (2) (b) (ii):

Omit the subparagraph, substitute:

- “(ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.”

1.5 Clause 309.223:

Omit the clause, substitute:

“309.223 In the case of an applicant who meets the requirements of subclause 309.211 (2), the applicant continues to be the spouse of the person referred to in paragraph 309.211 (2) (a), (b), (c) or (d) who was the applicant’s spouse at the time of the application.”

1.6 Clause 309.227:

Omit “An assurance”, substitute “If so requested by the Minister, an assurance”.

1.7 Clause 309.325:

Omit the clause, substitute:

“309.325 If the Minister requires an assurance of support in respect of the person who satisfies the primary criteria:

- (a) the applicant is included in the assurance of support given in respect of that person, and that assurance has been accepted by the Minister; or
- (b) an assurance of support has been given in relation to the applicant, and has been accepted by the Minister.”

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2. Part 310 (Interdependency (Provisional))

2.1 Paragraph 310.211 (b):

Omit the paragraph, substitute:

“(b) is in an interdependent relationship with a person who has turned 18 and is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.”.

2.2 Clause 310.223:

Omit “Australian citizen”, substitute “Australian citizen, Australian permanent resident or eligible New Zealand citizen”.

2.3 Clause 310.226:

Omit “An assurance”, substitute “If so requested by the Minister, an assurance”.

2.4 Clause 310.325:

Omit the clause, substitute:

“310.325 If the Minister requires an assurance of support in respect of the person who satisfies the primary criteria:

- (a) the applicant is included in the assurance of support given in respect of that person, and that assurance has been accepted by the Minister; or
- (b) an assurance of support has been given in relation to the applicant, and has been accepted by the Minister.”.
