



Migration Legislation Amendment (Contributory Parents Migration Scheme) Act 2003

No. 5, 2003

**An Act to amend the law relating to migration, and
for related purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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**An Act to amend the law relating to migration, and
for related purposes**

[Assented to 19 March 2003]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Migration Legislation Amendment
(Contributory Parents Migration Scheme) Act 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

| Commencement information | | |
|---|---|---|
| Column 1 | Column 2 | Column 3 |
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day on which this Act receives the Royal Assent | 19 March 2003 |
| 2. Schedule 1 | Immediately after the commencement of the <i>Migration (Visa Application) Charge Amendment Act 2003</i> | 20 March 2003 |
| 3. Schedule 2 | A single day to be fixed by Proclamation, subject to subsections (3) and (4) | 27 June 2003 (s 2(1); <i>Gazette</i> 2003, GN24) |
| 4. Schedule 3 | A single day to be fixed by Proclamation, subject to subsections (3) and (4) | 1 July 2003 (s 2(1); <i>Gazette</i> 2003, GN24) |

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) A Proclamation under item 3 or 4 of the table must not specify a day that occurs before the day on which the *Migration (Visa Application) Charge Amendment Act 2003* commences.
- (4) If a provision covered by item 3 or 4 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, that provision is repealed on the first day after the end of that period.

3 Schedule(s)

- (1) Each Act, and each regulation, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.
- (3) To avoid doubt, regulations amended under subsection (1) are taken to still be regulations.

Schedule 1—Visa Application Charge

Migration Act 1958

1 Subsection 5(1) (definition of *visa application charge limit*)

Omit “section 5 of”.

2 Subsection 45B(1) (note)

Omit “section 5 of”.

3 At the end of section 45B

Add:

- (3) The Minister must publish the Contributory Parent Visa Composite Index (within the meaning of the *Migration (Visa Application) Charge Act 1997*) for a financial year in the *Gazette* before the start of the financial year.

Note: The Contributory Parent Visa Composite Index affects the visa application charge limit in relation to contributory parent visas (within the meaning of the *Migration (Visa Application) Charge Act 1997*).

- (4) If the Contributory Parent Visa Composite Index for a financial year is not published as required by subsection (3), it is not to be taken, merely because of that fact, to be invalid or to be a figure other than that published by the Australian Government Actuary for the financial year.

Schedule 2—Offshore contributory parent visas

Migration Regulations 1994

[1] Regulation 1.03, after definition of *parent*

insert

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

[2] After subregulation 1.12 (2)

insert

- (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.
- (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.

[3] After subregulation 2.07AG (2)

insert

- (3) For section 46 of the Act, an application for a substantive visa by a person 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.
- (4) For section 46 of the Act, an application for a substantive visa by a person 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.

[4] Paragraph 2.08A (2A) (c)

omit

visa.

insert

visa; or

[5] After paragraph 2.08A (2A) (c)

insert

- (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.

[6] Paragraph 2.36 (1) (b)

substitute

- (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.

[7] Subregulation 2.39 (4)

substitute

- (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.

[8] Paragraph 4.14 (2) (b)

omit

mark.

insert

mark; or

[9] After paragraph 4.14 (2) (b)

insert

- (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.

[10] Schedule 1, after paragraph 1124 (3) (aa)

insert

- (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.

[11] Schedule 1, after paragraph 1124A (3) (b)

insert

- (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.

[12] Schedule 1, after item 1129

insert

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: \$160
 - (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: \$1 175
 - (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: \$10 000

- (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 natural or adopted 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
 - (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: \$1 050
 - (iv) In any other case: \$25 000.
- (3) Other:
- (a) If the applicant is in Australia, and is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, 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
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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)

[13] Schedule 1, after item 1220A

insert

1221. Contributory Parent (Temporary) (Class UT)

- (1) Form: 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) In any other case: \$1 175
 - (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:
\$1 050
- (ii) In any other case: \$15 000.
- (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 Contributory Parent (Temporary) (Class UT) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
 - 173 (Contributory Parent (Temporary))

[14] Schedule 1, subitem 1301 (1)

after

47PA,

insert

47PT,

[15] Schedule 1, subitem 1303 (1)

omit

47SP,

insert

47PT, 47SP,

[16] Schedule 1, subitem 1305 (1)

omit

47SP,

insert

47PT, 47SP,

[17] Schedule 2, after clause 103.228

insert

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:
 - (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.

[18] Schedule 2, after clause 103.326

insert

- 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:

- (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).
- 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, 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.
- (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

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- (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 is the holder of a Subclass 173 (Contributory Parent (Temporary)) 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 If the applicant is not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, 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.

143.222 Either:

- (a) for an applicant who is sponsored in accordance with subclause 143.212 (2) or (3) — the sponsorship has been approved by the Minister and is still in force in relation to:
 - (i) for an applicant who was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application:

- (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); or
 - (ii) in any other case — the sponsor at the time of application; or
 - (b) all of the following apply:
 - (i) the applicant was the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application;
 - (ii) 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;
 - (iii) there is no other sponsor available who meets the requirements set out in subclause 143.212 (2) or (3).
- 143.223 If the applicant was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant continues to satisfy the balance of family test.
- 143.224 The applicant satisfies public interest criteria 4001, 4002 and 4003.
- 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 public interest criteria 4004, 4005, 4009 and 4010.
- 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 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
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- 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 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.
- 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 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.
- 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
 - (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.

143.3 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 Either:

- (a) the sponsorship, mentioned in subclause 143.212 (2) or (3), of the person who satisfies the primary criteria includes sponsorship of the applicant; or
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-
- (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 143.212 (4).

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 Either:

- (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; or
- (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.

143.323 The applicant satisfies public interest criteria 4001, 4002 and 4003.

143.324 For an applicant who was not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant satisfies public interest criteria 4004, 4005, 4009 and 4010.

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 Either:

- (a) the applicant is included in the assurance of support given in respect of the person who satisfies the primary

- criteria, 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.
- 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.

143.4 Circumstances applicable to grant

143.411 If the applicant is the holder of a Subclass 173 (Contributory Parent (Temporary)) visa at the time of application, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

143.412 If the applicant is not the holder of a Subclass 173 (Contributory Parent (Temporary)) visa 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 Visa label affixed to a valid passport.

[20] **Schedule 2, after Part 159**

insert

**Subclass 173 Contributory Parent
(Temporary)**

173.1 Interpretation

Note *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent, parent visa, settled and spouse* 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.

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, 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.

- (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.

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 Sponsorship in accordance with clause 173.212 has been approved by the Minister and is still in force.

173.223 The applicant continues to satisfy the balance of family test.

- 173.224 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 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
 - (b) if he or she 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:
 - (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.

173.3 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 The sponsorship mentioned in clause 173.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

173.32 Criteria to be satisfied at time of decision

- 173.321 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 173 (Contributory Parent (Temporary)) visa.
- 173.322 Sponsorship in accordance with clause 173.312 has been approved by the Minister and is still in force.
- 173.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 173.324 If the applicant 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.

173.4 Circumstances applicable to grant

173.411 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.

173.5 When visa is in effect

173.511 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.

173.6 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 Visa label affixed to a valid passport.

[21] Schedule 2, paragraph 773.213 (2) (zq)

omit

(Class DE).

substitute

(Class DE);

[22] Schedule 2, after paragraph 773.213 (2) (zq)

insert

(zr) Contributory Parent (Migrant) (Class CA);

(zs) Contributory Aged Parent (Residence) (Class DG).

[23] Schedule 2, paragraph 773.213 (3) (l)

omit

(Class TZ).

substitute

(Class TZ);

[24] Schedule 2, after paragraph 773.213 (3) (l)

insert

(m) Contributory Parent (Temporary) (Class UT);

(n) Contributory Aged Parent (Temporary) (Class UU).

Schedule 3—Onshore contributory parent visas

Migration Regulations 1994

[1] Schedule 1, after item 1130

insert

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: \$160
 - (iii) In any other case: \$1 745
 - (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: \$10 000

- (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 natural or adopted 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
 - (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: \$1 050
 - (iv) In any other case: \$25 000.
- (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)

[2] Schedule 1, after item 1221

insert

1221A. Contributory Aged Parent (Temporary) (Class UU)

- (1) Form: 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) In any other case: \$1 745
 - (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:
\$1 050
 - (ii) In any other case: \$15 000
- (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 (Temporary) (Class UU) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

884 (Contributory Aged Parent (Temporary))

[3] Schedule 2, after clause 804.227

insert

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.

[4] Schedule 2, after clause 804.325

insert

- 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 *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.

[5] Schedule 2, after Part 863

insert

Subclass 864 Contributory Aged Parent

864.1 Interpretation

Note *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent, parent visa, settled and spouse* 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.

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
 - (b) a person who:
 - (i) is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) 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).
- 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, 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.

- (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 is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) 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).

864.214 If the applicant is not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, 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 Either:

- (a) for an applicant who is sponsored in accordance with subclause 864.213 (2) or (3) — the sponsorship has been approved by the Minister and is still in force in relation to:
 - (i) for an applicant who was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application:
 - (A) the sponsor at the time of application; or
 - (B) another sponsor who meets the requirements set out in subclause 864.213 (2) or (3); or
 - (ii) in any other case — the sponsor at the time of application; or
- (b) all of the following apply:
 - (i) the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application;
 - (ii) 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;
 - (iii) there is no other sponsor available who meets the requirements set out in subclause 864.213 (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:

- (a) the balance of family test; and
 - (b) public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 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
 - (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 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
- 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 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.
- 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 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.

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- 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
 - (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.

864.3 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 Either:

- (a) the sponsorship, mentioned in subclause 864.213 (2) or (3), of the person who satisfies the primary criteria includes sponsorship of the applicant; or
- (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 864.213 (4).

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 Either:

- (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; or
- (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.

864.323 The applicant satisfies public interest criteria 4001, 4002 and 4003.

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- 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 public interest criteria 4004, 4005, 4009 and 4010.
- 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 Either:
- (a) the applicant is included in the assurance of support given in respect of the person who satisfies the primary criteria, 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.
- 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);
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- (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.

864.4 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 Visa label affixed to a passport.

[6] Schedule 2, after Part 882*insert***Subclass 884 Contributory Aged Parent
(Temporary)****884.1 Interpretation**

Note *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, parent, parent visa, settled and spouse* 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.

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:
- (a) is 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; 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, 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.
- (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.

884.213 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 Sponsorship in accordance with clause 884.212 has been approved by the Minister and is still in force.

884.223 The applicant continues to satisfy the balance of family test.

884.224 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

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 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.

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 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.

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.

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 The sponsorship mentioned in clause 884.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

884.32 Criteria to be satisfied at time of decision

- 884.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa.
- 884.322 Sponsorship in accordance with clause 884.312 has been approved by the Minister and is still in force.
- 884.323 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 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 has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

884.4 Circumstances applicable to grant

- 884.411 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.

884.5 When visa is in effect

- 884.511 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.
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884.6 Conditions: Nil.

884.7 Way of giving evidence

884.711 Visa label affixed to a passport.

*[Minister's second reading speech made in—
House of Representatives on 5 December 2002
Senate on 3 March 2003]*

(248/02)
