



Statutory Rules 1993 No. 88¹

Migration (1993) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Migration Act 1958*.

Dated 27 May 1993.

BILL HAYDEN
Governor-General

By His Excellency's Command,

N. BOLKUS
Minister for Immigration and Ethnic Affairs

1. Commencement

1.1 Subregulations 3.6, 7.3, 11.3, 20.1, 20.2, 24.8, 24.9, 24.16, 24.21, 24.25, 24.26, 24.29, 24.30, 24.31, 24.33, 26.2, 31.2 and 38.1 are taken to have commenced on 1 February 1993.

1.2 Subregulations 40.2, 40.3 and 40.4 are taken to have commenced on 1 March 1993.

1.3 Subregulations 36.1 and 36.2 commence on 31 May 1993.

[NOTE: The remainder of these Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Amendment

2.1 The Migration (1993) Regulations are amended as set out in these Regulations.

3. Regulation 1.3 (Interpretation)

3.1 Definitions of “declared body” and “designated English language course”:

Omit the definitions.

3.2 Definition of “designated industry sector”:

Omit the definition, substitute:

“ **‘designated industry sector’** means a sphere of business activity specified by Gazette Notice for the purposes of this definition ;” .

3.3 Definition of “Education Minister”:

Omit “of State”.

3.4 Definition of “Foreign Minister”:

Omit the definition, substitute:

“ **‘Foreign Minister’** means the Minister for Foreign Affairs;” .

3.5 Definition of “Immigration”:

Omit the definition, substitute:

“ **‘Immigration’** means the Department of Immigration and Ethnic Affairs;” .

3.6 Definition of “prescribed non-citizen”:

Omit the definition.

3.7 Definition of “work”:

Omit the definition, substitute:

“ **‘work’**, in relation to a Group 2.3 (visitor) or 2.4 (visitor (short stay)) visa or entry permit, means an activity that, in Australia, normally attracts remuneration;”.

4. Regulation 1.6 (De facto spouse)

4.1 Paragraph 1.6 (1) (a):

Omit “(without being legally married to each other)”.

5. Regulation 1.18 (Declared bodies)

5.1 Omit the regulation.

6. Regulation 2.8 (Notice of certain decisions refusing or terminating a visa or entry permit)

6.1 Paragraph 2.8 (2) (b):

Omit the paragraph.

6.2 Subregulation 2.8 (3):

Omit “paragraph (2) (a) or (b),”, substitute “paragraph (2) (a),”.

7. Regulation 2.10 (Prescribed change in circumstances (paragraphs 36 (1) (a) and 37 (2) (a) of Act)

7.1 Subparagraph 2.10 (f) (iii):

Omit the subparagraph, substitute:

“(iii) has not previously applied for a December 1989 (temporary) (code number 440) entry permit under the Migration (1989) Regulations or for a Class 812 (December 1989 (permanent)) entry permit; and”.

7.2 Subparagraph 2.10 (j) (iv):

Omit the subparagraph, substitute:

“(iv) satisfies the criteria for the grant of a Class 805 (skilled occupation) entry permit;”.

7.3 Paragraph 2.10 (k):

Omit “subsection 14 (2) of the Act”, substitute “subsection 14 (2) or (2A) of the Act”.

8. Regulation 2.12 (Entitlement to be granted a visa)

8.1 Subregulation 2.12 (1):

Omit “person”, substitute “applicant”.

9. Regulation 2.15 (Special provision for grant outside Australia of certain visas to former holders of corresponding temporary entry permits)

9.1 Subregulation 2.15 (2):

Omit “temporary”.

9.2 Paragraph 2.15 (2) (a):

Omit the paragraph, substitute:

“(a) visas included in the following groups:

- (i) Group 1.1 (migrant);
- (ii) Group 1.2 (permanent resident (after entry));
- (iii) Group 1.3 (permanent resident (refugee and humanitarian));
- (iv) Group 1.4 (resident return (permanent entry));
- (v) Group 2.5 (extended eligibility); and”.

10. Regulation 2.22 (Effect and operation of visas)

10.1 Paragraph 2.22 (2) (e):

Omit the paragraph, substitute:

“(e) if the visa is terminated by operation of regulation 2.23 or 2.36—on the day on which notice of the determination is taken to be served on the holder.”.

11. Regulation 2.29 (Applications for certain classes of entry permits to have effect as applications for entry permits of certain other classes)

11.1 Subparagraph 2.29 (1) (a) (v):

Omit the subparagraph, substitute:

“(v) Class 806 (family and other close ties (after entry));”.

11.2 Paragraph 2.29 (1) (b):

Omit “Group 2.4”, substitute “Group 2.5”.

11.3 Paragraphs 2.29 (1B) (a) to (h):

Omit the paragraphs, substitute:

- “(a) Class 801 (spouse (after entry));
- (b) Class 802 (child (after entry));
- (c) Class 804 (aged parent (after entry));”.
- (d) Class 805 (skilled occupation);
- (e) Class 806 (family and other close ties (after entry));
- (f) Class 808 (confirmatory);
- (g) Class 812 (December 1989 (permanent));
- (h) Class 820 (extended eligibility (spouse));
- (i) Class 826 (extended eligibility (interdependency)).”.

12. Regulation 2.31 (Special criterion applicable to holders of visas granted under law in force before 19 December 1989)

12.1 Subparagraph 2.31 (e) (ii):

Omit the subparagraph, substitute:

“(ii) a Class 813 (special equivalent 1989 (permanent)) entry permit.”.

13. Regulation 2.35 (Effect and operation of entry permits)

13.1 Paragraph 2.35 (2) (e):

Omit the paragraph, substitute:

“(e) if the entry permit is terminated by operation of regulation 2.36—on the day on which notice of the determination is taken to be served on the holder.”.

14. Regulation 3.3 (Provision by master of information regarding passengers)

14.1 Subregulation 3.3 (2):

Omit “signed by the master:”, substitute “signed by the medical officer or master, as the case requires:”.

14.2 Paragraph 3.3 (2) (a):

Omit “, in the master’s opinion,”, substitute “, in the opinion of the medical officer or master,”.

15. Regulation 7.1 (Service of documents generally)

15.1 Subparagraph 7.1 (2) (b) (i):

Omit the subparagraph, substitute:

“(i) in a metropolitan newspaper circulating in the State or Territory in which the person’s last-known place of residence is located; or”.

16. Regulation 7.6 (Time when service takes effect)

16.1 Subregulation 7.6 (2):

Omit “Subject to subregulation (3), if”, substitute “If”.

17. Regulation 7.8 (Reconsideration of decisions to refuse to grant a visa or entry permit)

17.1 Subparagraph 7.8 (2) (b) (i):

Omit “relating to the status of refugees”, substitute “Relating to the Status of Refugees”.

17.2 Subparagraph 7.8 (2) (b) (ii):

Omit “relating to the status”, substitute “Relating to the Status”.

18. Regulation 7.8AA (Prescribed evidence—paragraph 4 (1A) (b) of the Act)

18.1 Paragraph 7.8AA (a):

Omit “at an institution where instruction is”, substitute “at institutions where instruction was then”.

18.2 Paragraphs 7.8AA (b) and (c):

Omit “at an institution was”, substitute “at institutions where instruction was then”.

18.3 Paragraph 7.8AA (d):

Omit “National Languages Institute of Australia”, substitute “National Languages and Literacy Institute of Australia”.

18.4 Paragraph 7.8AA (g):

Omit “attaining”, substitute “ascertaining”.

18.5 Subparagraph 7.8AA (h) (ii) (second occurring):

Omit the subparagraph, substitute:

“(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);”.

19. Regulation 7.20A (Refugee Review Tribunal)

19.1 Omit “The full-time member of the Refugee Review Tribunal referred to in subsection 166JF (3)”, substitute “The first person who

is appointed as a member of the Refugee Review Tribunal referred to in subsection 166JF (1)".

20. Regulation 7.30 (Fee on application by person to whom subsection 14 (2) or (2A) of the Act applies)

20.1 Subregulation 7.30 (1):

Omit the subregulation, substitute:

“(1) Despite any other provision of these Regulations, no fee is payable on application for an entry permit if:

- (a) the applicant has received a notice by the Minister to the effect that the applicant is an illegal entrant because of the operation of subsection 14 (2) or (2A) of the Act; and
- (b) the application is made not later than the expiry of 7 working days after the day on which the applicant receives the notice.”.

20.2 Paragraph 7.30 (2) (a):

Omit “subsection 14 (2) of the Act; and”, substitute “subsection 14 (2) or (2A) of the Act; and”.

21. Regulation 8.2 (Saving)

21.1 Subregulation 8.2 (1):

Omit all the words before paragraph (a), insert:

“8.2 (1) Despite the repeal effected by regulation 8.1, the Migration (1989) Regulations continue to apply, subject to subregulations (1A) and (1B), to:”.

21.2 After subregulation 8.2 (1), insert:

“(1A) The Migration (1989) Regulations are taken to have had effect on and after 30 June 1992 as if each reference in paragraphs 35AA (1A) (a), 40 (1) (s) and 201A (2) (a) to subsection 14 (2) of the Act were a reference to subsection 14 (2) or (2A) of the Act.

“(1B) The Migration (1989) Regulations are taken to have had effect in relation to an application made before 1 February 1993 for a skilled occupation (code number 805) or an extended eligibility (economic) (code number 823) entry permit as if the following provisions had been repealed with effect from 1 December 1992:

regulation 8A, subparagraph 128 (1) (a) (i), subregulation 128 (1A), subparagraph 139 (1) (c) (i), subregulation 139 (1A).”.

22. Schedule 1 (Classification of visas and entry permits)

22.1 After item 1303, insert:

“1303A 213 (Displaced Burmese in Thailand (special assistance)) 013”.

23. Schedule 2, Chapter 1.1 (Migrant visas and entry permits)

23.1 Division 101.5:

Omit the Subdivision numbered “102.52”, substitute:

“**101.52 Period of validity (entry permit)**

101.521 The entry permit has effect without limitation as to time.”.

23.2 Clause 102.335:

Omit “who is applicant”, substitute “who is an applicant”.

23.3 Subclause 103.336 (1):

Omit “who is applicant”, substitute “who is an applicant”.

23.4 Division 104.5:

Omit the Subdivision numbered “105.52”, substitute:

“**104.52 Period of validity (entry permit)**

104.521 The entry permit has effect without limitation as to time.”.

23.5 Clause 124.321:

Omit “, profession or activity”, substitute “, profession or other activity”.

23.6 Subparagraph 124.322 (a) (iii):

Omit “or profession”, substitute “, profession or other activity”.

23.7 Clause 125.321:

Omit “, profession or activity”, substitute “, profession or other activity”.

23.8 Clauses 127.327 and 128.324:

Omit all the words following paragraph (a), substitute:

“(b) to maintain direct and continuous involvement in management of the business referred to in subparagraph (a) (i) or (ii) 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.”.

23.9 Paragraph 127.511 (b):

Omit “, as a primary person of”, substitute “, as a primary person, of”.

23.10 Clause 128.331:

Omit “128.326.”, substitute “128.325.”.

23.11 Paragraph 128.511 (b):

Omit “, as a primary person of”, substitute “, as a primary person, of”.

23.12 Clause 129.327:

Omit all the words following paragraph (a), substitute:

“(b) to maintain direct and continuous involvement in management of the business referred to in subparagraph (a) (i) or (ii) 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.”.

23.13 Paragraph 129.335 (1) (a):

Omit the paragraph, substitute:

“(a) satisfies public interest criteria 4001 to 4004, 4009 and 4010; and”.

23.14 Clause 130.324:

Omit all the words following paragraph (a), substitute:

“(b) to maintain direct and continuous involvement in management of the business referred to in subparagraph (a) (i) or (ii) 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.”.

23.15 Paragraph 130.335 (1) (a):

Omit the paragraph, substitute:

“(a) satisfies public interest criteria 4001 to 4004, 4009 and 4010; and”.

23.16 Paragraph 130.511 (b):

Omit “, as a primary person of”, substitute “, as a primary person, of”.

23.17 Paragraph 431.211 (b):

Omit the paragraph, substitute:

“(b) granted only as a travel-only visa.”.

24. Schedule 2, Chapter 1.2 (Permanent resident (after entry) visas and entry permits)

24.1 Clause 801.131 and note:

Omit the clause and note, substitute:

“801.131 In this Part:

“ **‘nominating spouse’**, in relation to an applicant who is the holder of a Class 820 (extended eligibility (spouse)) entry permit, means the person who nominated the applicant for the grant of that entry permit.” .

24.2 Subdivision 801.72:

Omit the Subdivision, substitute:

“801.72 Criteria to be satisfied at time of application (entry permit—after entry)

“801.721 If the applicant is a holder, as a primary person, of a Class 300 (prospective marriage) entry permit:

- (a) the applicant has married the Australian citizen, or the Australian permanent resident, who was specified in the application for the Class 300 (prospective marriage) visa as the person whom the applicant intended to marry after entry to Australia; and
- (b) the marital relationship between the applicant and that Australian citizen or Australian permanent resident is a genuine and continuing relationship; and
- (c) the applicant is nominated by the Australian citizen or Australian permanent resident.

“801.722 If the applicant is:

- (a) the holder, as a secondary person, of a Class 300 (prospective marriage) entry permit; and
- (b) a dependent child of a person who is the holder, as a primary person, of a Class 300 (prospective marriage) entry permit;

then:

- (c) the person on whom the applicant is dependent must be an applicant for a Class 801 entry permit who satisfies the criteria specified in clause 801.721; and
- (d) the dependent child must be included in the same nomination as the person on whom he or she is dependent.”.

24.3 Subclause 801.732 (2):

Omit the subclause, substitute:

- “(2) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Class 820 (extended eligibility (spouse)) entry permit; and
 - (b) the applicant continues to be nominated for the grant of the Class 801 entry permit by the nominating spouse; and
 - (c) the marital relationship between the applicant and the nominating spouse is both genuine and continuing; and
 - (d) subject to subclause (11), at least 2 years have passed since the application was made.”.

24.4 Subclause 801.732 (4):

Omit “satisfied the criteria in 820.731 (3).”, substitute “met the requirements of subclause 820.731 (3).”.

24.5 Paragraph 801.732 (5) (b):

Omit the paragraph, substitute:

- “(b) would meet the requirements of subclause (2) except that the nominating spouse has died; and”.

24.6 Subclauses 801.732 (7), (7A) and (8):

Omit the subclauses, substitute:

- “(7) An applicant meets the requirements of this subclause if:
- (a) the applicant satisfied the requirements of clause 801.721 at the time of application; and
 - (b) the marital relationship between the applicant and the Australian citizen or Australian permanent resident referred to in that clause is a genuine and continuing relationship; and
 - (c) the applicant continues to be nominated by the Australian citizen or Australian permanent resident.
- “(7A) An applicant meets the requirements of this subclause if:
- (a) the applicant satisfied the requirements of clause 801.721 at the time of application; and
 - (b) the Australian citizen or Australian permanent resident referred to in that clause has died; and

- (c) the applicant satisfies the Minister that the marital relationship of the applicant and that Australian citizen or Australian permanent resident was genuine and would have continued if the other party had not died; and
 - (d) 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 satisfied the requirements of clause 801.721 at the time of application; and
 - (b) the marital relationship has ceased; and
 - (c) the applicant satisfies the Minister that the marital relationship was genuine and would have continued to be genuine had it not ceased; and
 - (d) one or more of the circumstances set out in paragraph (6) (c) applies.”.

24.7 Subclause 801.732 (10):

Omit the subclause, substitute:

- “(10) An applicant meets the requirements of this subclause if:
- (a) the applicant satisfied the requirements of clause 801.722 at the time of application; and
 - (b) the applicant is the dependent child of a person who:
 - (i) is the holder of a Class 801 entry permit; and
 - (ii) at the time of decision on the application for that entry permit, met the requirements of subclause (7), (7A) or (8); and
 - (c) the Minister is satisfied that the grant of of the entry permit would not prejudice the rights of any person who has custody or guardianship of, or access to, the applicant.”.

24.8 Subclause 801.732 (11):

Add at the end:

- “; or (c) approving the grant of a Class 801 entry permit to an applicant who was granted an extended eligibility (spouse) (code number 820) entry permit under the Migration (1989) Regulations, other than an applicant whose application was in accordance with approved form 887 ”.

24.9 Clause 802.722:

Omit “, 6002 and 6004.”, substitute “and 6002.”.

24.10 Clause 802.735:

Omit the clause, substitute:

“802.735 The Minister is satisfied that the grant of the entry permit would not prejudice the rights of any person who has custody or guardianship of, or access to:

- (a) the applicant; or
- (b) a dependent child of the applicant.”.

24.11 Clause 802.737 (wherever occurring):

Omit the clauses.

24.12 Paragraph 802.821 (a):

Omit the paragraph, substitute:

“(a) application by the holder of an extended eligibility (family) entry permit (code number 822) granted under the Migration (1989) Regulations: \$155;”.

24.13 Subparagraph 802.821 (b) (ii):

Omit the subparagraph, substitute:

“(ii) who was included in that parent’s application for a Group 1.1 (migrant) visa or for a business (joint venture) (code number 122) visa or a business (general) (code number 123) visa granted under the Migration (1989) Regulations:”.

24.14 Clause 804.736 note:

Omit “Under s. 24 (3B) of the Act,”, substitute “Under s. 34 (3B) of the *Migration Act 1958*,”.

24.15 Clause 804.738:

Omit the clause.

24.16 Clause 805.721:

Omit the clause.

24.17 Paragraph 805.722 (1) (b):

Omit “(visitor (short stay))”, substitute “visitor (short stay)”.

24.18 Paragraph 805.722 (1) (b):

Omit “Schedule 3 of”, substitute “Schedule 3 to”.

24.19 Subparagraph 805.722 (2) (b) (i):

Omit “(visitor (short stay))”, substitute “visitor (short stay)”.

24.20 Subparagraph 805.722 (2) (b) (i):

Omit “Schedule 3 of”, substitute “Schedule 3 to”.

24.21 Subparagraph 805.723 (1) (b) (ii):

Omit the subparagraph, substitute:

“(ii) subject to subclause (3), is not a category B student or an assisted student; or”.

24.22 Paragraph 805.724 (4) (a):

Omit “or activity” (wherever occurring), substitute “or other activity”.

24.23 Sub-subparagraph 805.724 (4) (b) (i) (C):

Omit “or profession; or”, substitute “, profession or other activity; or”.

24.24 Clause 805.738:

Omit the clause, substitute:

“805.738 The Minister is satisfied that the grant of the entry permit would not prejudice the rights of any person who has custody or guardianship of, or access to, a dependent child of the applicant.”.

24.25 Subclause 806.721 (1):

Omit the subclause, substitute:

“(1) The applicant:

(a) is not the holder of a Class 771 (transit) entry permit; and

(b) is not an illegal entrant; and

(c) satisfies the requirements of subclause (7) or (8);

or, subject to subclause (2), is an illegal entrant.”.

24.26 Subparagraph 806.721(2) (b) (i):

Omit the subparagraph, substitute:

“(i) the requirements of subclause (7) or (8); and”.

24.27 Subparagraph 806.721 (4) (a) (iv):

Omit “entry permit; and”, substitute “visa; and”.

24.28 Paragraph 806.721 (4) (b):

Omit the paragraph, substitute:

“(b) at any time within 5 years before being granted that visa was an Australian permanent resident and subsequently became an illegal entrant.”.

24.29 Clause 806.721:

Add at the end:

“(7) An applicant satisfies the requirements of this subclause if the applicant is an aged dependent relative, an orphan relative, a remaining relative or a special need relative of another person who:

- (a) is a settled Australian citizen or a settled Australian permanent resident; and
- (b) is usually resident in Australia; and
- (c) has nominated the applicant for the grant of the entry permit.

“(8) An applicant satisfies the requirements of this subclause if the applicant meets:

- (a) the criteria set out in clause 150.321 and 150.322 of Chapter 1.1 with regard to a Class 150 (former citizen) visa; or
- (b) the criteria set out in clause 151.321 of Chapter 1.1 with regard to a Class 151 (former resident) visa; or
- (c) the criteria set out in clause 152.321 of Chapter 1.1 with regard to a Class 152 (family reunion (New Zealand)) visa.”.

24.30 Clause 806.722:

Omit the clause.

24.31 Paragraph 806.731 (4) (a):

Omit the paragraph, substitute:

“(a) the applicant satisfies the requirements of subclause 806.721 (8); and”.

24.32 Paragraph 806.731 (4) (c):

Omit the paragraph, substitute:

“(c) the applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.”.

24.33 Paragraph 806.731 (5) (a):

Omit “clause 806.722”, substitute “subclause 806.721 (7)”.

24.34 Paragraph 806.731 (5) (c):

Omit the paragraph, substitute:

“(c) an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.”.

24.35 Clause 806.731 note:

Omit “Under s. 24 (3B) of the Act,”, substitute “Under s. 34 (3B) of the Act,”.

24.36 Paragraph 806.732 (2) (b):

Omit “satisfies”.

24.37 Clause 806.733:

Omit the clause.

24.38 Clause 806.734:

Omit the clause, substitute:

“806.734 The Minister is satisfied that the grant of the entry permit would not prejudice the rights of any person who has custody or guardianship of, or access to:

- (a) the applicant; or
- (b) a dependent child of the applicant.”.

24.39 Division 806.8:

Omit the Subdivision heading numbered “802.82”, substitute:

“806.82 Entry permit applications”.

24.40 Paragraph 808.722 (d):

Omit the paragraph, substitute:

“(d) is the holder of a Class 773 (border) entry permit and satisfies the Minister that he or she would have satisfied the criteria for the grant, before entry, of a Group 1.4 (resident return (permanent entry)) visa when he or she was granted the Class 773 (border) visa; or”.

24.41 Clause 808.723:

Omit “all family members of the applicant”, substitute “all members of the family unit of the applicant”.

24.42 Clause 812.721:

Omit “illegal entrant criterion 6002.”, substitute “illegal entrant criteria 6001 and 6002.”.

24.43 Subclause 812.723 (2):

Omit “a relationship”, substitute “a marital relationship”.

24.44 Subclause 812.723 (2):

Omit “permanent resident.”, substitute “permanent resident.”.

24.45 Subclause 812.723 (5):

Omit all the words following paragraph (d), substitute “of a settled Australian citizen or of a settled Australian permanent resident.”.

24.46 Clause 812.732:

Omit the clause, substitute:

“812.732 The applicant:

- (a) continues to satisfy the criteria in clause 812.723; and
- (b) has, since lodgment of the application, notified Immigration without unreasonable delay of any change of his or her residential address.”.

24.47 Clause 812.735:

Omit the clause.

24.48 Clause 812.737:

Omit the clause, substitute:

“812.737 The Minister is satisfied that the grant of the entry permit would not prejudice the rights of any person who has custody or guardianship of, or access to, a dependent child of the applicant.”.

25. Schedule 2, Chapter 1.3 (Permanent resident (refugee and humanitarian) visas and entry permits)

25.1 Paragraph 205.322 (b):

Omit “Commission”, substitute “Commissioner”.

25.2 Paragraph 209.322 (b):

Omit “Croatia, Slovenia or Yugoslavia”, substitute “the former Socialist Federal Republic of Yugoslavia”.

25.3 Clause 211.321:

Omit the clause, substitute:

“211.321 The applicant:

- (a) is a citizen of Burma; and
- (b) is resident in Burma; and
- (c) is subject to substantial discrimination in Burma.”.

25.4 Clause 211.324:

Omit the clause.

25.5 After clause 211.336, insert:

“211.337 The Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a visa.”.

25.6 Subdivision 212.12:

Omit “serious”, substitute “severe”.

25.7 Paragraph 212.323 (d):

Omit “who”.

25.8 After Part 212, insert:

**“PART 213—CLASS 213 (DISPLACED BURMESE IN THAILAND
(SPECIAL ASSISTANCE)) VISA AND ENTRY PERMIT**

(PRIMARY PERSON)

213.1 INTRODUCTION

213.11 Group: 1.3 (permanent resident (refugee and humanitarian)).

213.12 Purpose of grant to primary persons: To authorise travel to, and permanent residence in, Australia by certain Burmese citizens resident in Thailand who are subject to substantial discrimination in Burma.

[NOTE: For provisions relating to secondary persons, see Part 013 of Schedule 3.]

**213.2 (DISPLACED BURMESE IN THAILAND (SPECIAL
ASSISTANCE)) VISA—PRELIMINARY**

213.21 When and where may application and grant be made?

213.211 A Class 213 visa may be:

- (a) applied for and granted only before entry, but not at the Entry Control Point; and
- (b) granted either as a travel-only visa or as an entry visa.

213.22 Validity (visa)

213.221 Journey(s) to Australia: 1 only.

213.222 Time limit for arrival in Australia: As determined by the Minister in each particular case.

213.223 Authorised period of stay (entry visa only): Without limitation as to time.

213.3 (DISPLACED BURMESE IN THAILAND (SPECIAL ASSISTANCE)) VISA (BEFORE ENTRY)

[NOTE: The purpose of the grant of a Class 213 visa before entry is, first, to authorise travel to Australia and, second, to authorise entry to Australia (entry visa) or to serve on arrival as an application for a Class 213 entry permit (travel-only visa).]

213.31 Application (visa before entry)

213.311 The application must be made in accordance with approved form 917.

[NOTE: Before an application will be considered, it must be lodged in accordance with regulation 2.13 (Act, subsection 24 (1)).]

213.32 Criteria to be satisfied at time of application (visa before entry)

213.321 The applicant:

- (a) is a citizen of Burma; and
- (b) is resident in Thailand; and
- (c) is subject to substantial discrimination in Burma.

213.322 The applicant has produced a written offer of support from:

- (a) an organisation that is accepted by the Minister as representing the Burmese community in Australia; or
- (b) an established Community Refugee Settlement Scheme support group.

213.323 An organisation referred to in clause 213.322 gives to the applicant a written undertaking addressed to the Minister that specifies assistance:

- (a) that the organisation will provide to the applicant, and the applicant's dependants, after their entry to Australia; and
- (b) that is acceptable to the Minister, having regard to the needs of the applicant and his or her dependants in the period of 6 months following entry to Australia;

with regard to the following matters:

- (c) food, clothing, accommodation and household goods;
- (d) personal support;
- (e) access to community and public services;
- (f) obtaining employment;
- (g) language interpretation and securing English language instruction;

- (h) community involvement and self-reliance;
- (i) reimbursing the Commonwealth for its costs (if any) in providing accommodation services to the applicant;
- (j) in the case of an applicant to whom paragraph (i) applies—reporting to Immigration on progress in the settlement of the applicant.

213.33 Criteria to be satisfied at time of decision (visa—before entry)

213.331 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.

213.332 Approval of the application would not result in the number of Class 213 visas granted in a financial year exceeding the maximum number of Class 213 visas specified, by Gazette Notice, for the purposes of this clause in respect of that financial year.

213.333 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

213.334 If the applicant has previously been in Australia, the applicant satisfies special re-entry criteria 5001, 5003, 5005, 5007, 5008, 5009 and 5010.

213.335 (1) Each member of the family unit of the applicant who is an applicant for a Class 213 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004, 4009 and 4010; and
- (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria; and
- (c) if he or she has previously been in Australia, satisfies special re-entry criteria 5001, 5003, 5005, 5007, 5009 and 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Class 213 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004; and
- (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria..

213.336 If:

- (a) the family unit of the applicant includes a dependent child who is an applicant, as a secondary person, for a Class 213 visa; and
- (b) the applicant is the relevant primary person in relation to that application;

the Minister is satisfied that the grant of the visa to the child would not prejudice the rights of any other person who has custody or guardianship of, or access to, the child.

213.337 The Minister is satisfied that there are compelling reasons for giving special consideration to granting the applicant a visa.

213.34 Conditions (visa before entry)

213.341 Mandatory conditions: Nil.

213.342 Discretionary conditions: Any applicable conditions set out in Schedule 9.

213.4 [(Displaced Burmese in Thailand (special assistance)) visa not granted after entry]

[NOTE: Authority, before departure, for the return travel to Australia of the holder of a Class 213 entry permit (which expires on departure from Australia: Act, section 49) is provided by the grant of a Group 1.4 (resident return) visa.]

213.5 (DISPLACED BURMESE IN THAILAND (SPECIAL ASSISTANCE)) ENTRY PERMIT PRELIMINARY

213.51 When and where may application and grant be made?

213.511 A Class 213 entry permit may be applied for by, and granted to, a primary person only:

- (a) at the Entry Control Point; and
- (b) if the person is the holder, as a primary person, of a Class 213 visa that was granted as a travel-only visa.

213.52 Period of validity (entry permit)

213.521 Authorised period of stay: Without limitation as to time.

213.6 (DISPLACED BURMESE IN THAILAND (SPECIAL ASSISTANCE)) ENTRY PERMIT (BEFORE ENTRY): As provided by regulation 2.30.

213.7 [Displaced Burmese in Thailand (special assistance) entry permit not granted after entry]

213.8 FEES: Nil.”.

26. Schedule 2, Chapter 1.4 (Resident return (permanent entry) visas and entry permits)

26.1 Subdivision 154.12:

Add at the end “and for certain persons who entered Australia within the last 3 years as holders of single entry migrant visas that did not include a re-entry facility”.

26.2 Subclause 154.411 (3):

Omit “for a Class 154 entry permit”, substitute “for a Class 154 visa”.

26.3 Paragraph 155.321 (3) (a):

Omit the paragraph, substitute:

“(a) a person who is employed outside Australia by:

- (i) the Commonwealth, a State or a Territory; or
- (ii) a Commonwealth, State or Territory authority; or
- (iii) an organisation that has its principal office in Australia;

and the Minister is satisfied that the person was usually employed by that employer immediately before the person departed Australia; or”.

26.4 Paragraphs 155.421 (3) (a) and (b):

Omit the paragraphs, substitute:

“(a) a person who is, or is to be, employed outside Australia by:

- (i) the Commonwealth, a State or a Territory; or
- (ii) a Commonwealth, State or Territory authority; or
- (iii) an organisation that has its principal office in Australia;

and the Minister is satisfied that the person is usually employed in Australia by that employer; or”.

26.5 Subclause 157.411 (2):

Omit “who included”, substitute “who is included”.

27. Schedule 2, Chapter 2.1 (Temporary resident visas and entry permits)

27.1 Subdivision 303.12:

After “visas”, insert “or for Group 2.2 (student) visas”.

27.2 Clause 303.223:

Omit “clause 303.522”, substitute “clause 303.521”.

27.3 Subparagraphs 410.721 (b) (i) and (ii):

Omit the subparagraphs, substitute:

- “(i) Group 2.2 (student);
- (ii) Group 2.3 (visitor);
- (iii) Group 2.4 (visitor (short stay)); or”.

27.4 Part 412, clause 410.734:

Omit “410.734”, substitute “412.734”.

27.5 Clause 412.333 (second occurring):

Omit the clause, substitute:

“412.333A The applicant satisfies public interest criteria 4001 to 4005 and 4010.”.

27.6 Clause 413.331:

Omit the clause, substitute:

“413.331 The applicant continues to satisfy the criteria specified in clauses 413.321 to 413.323.”.

27.7 Paragraph 413.335 (b):

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.8 Clause 414.324:

Omit the clause, substitute:

“414.324 If the application is in respect of a stay in Australia of more than 4 months, the applicant is sponsored by the intended employer of the applicant in the business enterprise in Australia in which the applicant has been offered a position.”.

27.9 Paragraph 414.335 (b):

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.10 Paragraph 414.421 (2) (a):

Omit “, as a primary applicant,”, substitute “, as a primary person,”.

27.11 Paragraph 415.322 (c):

Omit “paragraph 415.321 (b)”, substitute “paragraph 415.321 (c)”.

27.12 Paragraph 415.336 (b):

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.13 Clause 418.333:

Omit “under 418.324”, substitute “under clause 418.325”.

27.14 Paragraph 418.336 (b):

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.15 After clause 419.322, insert:

“419.322A 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.”.

27.16 Clause 420.335:

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.17 Paragraph 420.421 (2) (a):

Omit “, as a primary applicant,”, substitute “, as a primary person,”.

27.18 Subparagraph 421.321 (2) (b) (i):

Omit “of an accompanying”, substitute “of any accompanying”.

27.19 Clause 421.322:

Omit the clause.

27.20 Clause 421.335:

Omit “clause 421.323 or 421.324:”, substitute “clause 421.324”.

27.21 Paragraph 421.335 (b):

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.22 After clause 421.335, insert:

“421.336 Each member of the family unit of the applicant accompanying the applicant and each person accompanying the applicant to Australia as an assistant for whom the applicant is responsible is a person who:

- (a) satisfies public interest criteria 4001 to 4005 and 4010; and
- (b) if previously in Australia, satisfies special re-entry criteria 5001, 5003, 5005, 5007, 5009 and 5010.”.

27.23 Clause 421.725:

Omit the clause, substitute:

“421.725 If the application is in respect of a proposed stay in Australia of more than 4 months, the applicant:

- (a) is sponsored by an Australian citizen, an Australian permanent resident 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.”.

27.24 Subclause 421.811 (1):

Omit “primary applicant”, substitute “primary person”.

27.25 Subclause 421.811 (2):

Omit “paragraph 421.321 (a) or (b)”, substitute “subclause 421.321 (2) or (3)”.

27.26 Subclause 421.822 (1):

Omit “primary applicant”, substitute “primary person”.

27.27 Clause 422.331:

Omit “clauses 422.321 to 422.324.”, substitute “clauses 422.321 to 422.325.”.

27.28 Clause 422.335:

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.29 Paragraph 423.321 (3) (c):

Omit “the applicant”, substitute “the application”.

27.30 Clause 423.331:

Omit “clauses 423.221 to 423.323”, substitute “clauses 423.321 to 423.323”.

27.31 Paragraph 423.332 (d):

Omit “the representative”, substitute “the applicant”.

27.32 Paragraph 423.338 (b):

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.33 Paragraph 424.335 (b):

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.34 Subparagraph 424.731 (a) (ii):

Omit “primary applicant”, substitute “primary person”.

27.35 Clause 427.335:

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.36 Subdivision 428.12:

Omit “religious organisations”, substitute “certain religious organisations”.

27.37 Clause 428.321:

Omit the clause, substitute:

“428.321 The applicant is sponsored by a religious organisation in Australia to undertake work in Australia that directly serves the religious objectives of the organisation.”.

27.38 Clause 428.323:

Omit the clause, substitute:

“428.323 If the application relates to a proposed stay in Australia for more than 6 months, the applicant is able:

- (a) to ask and answer simple questions in English; and
- (b) to write simple statements in English about everyday matters; and
- (c) to complete simple forms in English.”.

27.39 Clause 428.335:

Omit “regulation 7.28”, substitute “regulation 7.27”.

27.40 Clause 432.331:

Omit “clauses 432.321 to 432.327.”, substitute “clauses 432.321 to 432.326.”.

27.41 After clause 442.335, insert:

“442.336 If a nomination is required under subclause 442.322 (1), that nomination is still in force.”.

27.42 Clause 442.733 (second occurring):

Omit the clause, substitute:

“442.734 If so requested by the Minister, an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.”.

28. Schedule 2 Chapter 2.2 (Student visas and entry permits)

28.1 Subparagraph 560.332 (d) (ii):

Omit the subparagraph, substitute:

“(ii) in relation to which the applicant was granted a student (formal course) (code number 553) visa or entry permit issued under the Migration (1989) Regulations.”.

28.2 Subparagraph 561.332 (c) (ii):

Omit “or student (restricted) visa or entry permit; and”, substitute “or student (restricted) (code number 556) visa or entry permit issued under the Migration (1989) Regulations; and”.

28.3 Paragraphs 561.811 (a) and 561.822 (a):

Omit “family member”, substitute “member of the family unit”.

29. Schedule 2, Chapter 2.3 (Visitor visas and entry permits)

29.1 Part 661 heading:

Omit “(PRIMARY PERSON)”.

29.2 Clause 680.311 and note:

Omit the clause and note, substitute:

“680.311 (1) Subject to subclause (2), the application must be made in accordance with approved form 48.

“(2) An application by a person who is included in the passport of another applicant for a Class 680 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.13 and the fee (if any) specified in clause 680.811 must be paid (Act, subsection 24 (1).]”.

29.3 Clause 680.411 and note:

Omit the clause and note, substitute:

“680.411 (1) Subject to subclause (2), the application must be made in accordance with approved form 43.

“(2) An application by a person who is included in the passport of another applicant for a Class 680 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.13 and the fee (if any) specified in clause 680.811 must be paid (Act, subsection 24 (1).]”.

29.4 Clause 680.711 and note:

Omit the clause and note, substitute:

“680.711 (1) Subject to subclause (2), the application must be made in accordance with approved form 2.

“(2) An application by a person who is included in the passport of another applicant for a Class 680 entry permit may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.14 and the fee (if any) specified in clause 680.822 must be paid (Act, subsection 34 (1).]”.

29.5 Paragraph 680.732 (b):

Omit “in regulation 1.3;”, substitute “in regulation 1.3);”.

29.6 Clause 680.735:

Omit “clauses 680.722 to 680.724.”, substitute “clauses 680.722 and 680.723.”.

29.7 After clause 680.737, insert:

“680.738 If so requested by the Minister, an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.”.

29.8 Subclause 680.811 (1):

Omit the subclause, substitute:

“(1) Before or after entry:

(a) separate application: \$30;

(b) application combined with another application on which the fee is paid: Nil.”.

29.9 Paragraph 680.822 (b):

Omit the paragraph, substitute:

- “(b) in the case of an application combined with another application on which the fee is paid: Nil; or
- (c) in any other case: \$100.”.

29.10 Clause 682.311 and note:

Omit the clause and note, substitute:

“682.311 (1) Subject to subclause (2), the application must be made in accordance with approved form 48.

“(2) An application by a person who is included in the passport of another applicant for a Class 682 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.13 and the fee (if any) specified in clause 682.811 must be paid (Act, subsection 24 (1).]”.

29.11 Clause 682.336:

Omit the clause.

29.12 Clause 682.411 and note:

Omit the clause and note, substitute:

“682.411 (1) Subject to subclause (2), the application must be made in accordance with approved form 43.

“(2) An application by a person who is included in the passport of another applicant for a Class 682 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.14 and the fee (if any) specified in clause 682.811 must be paid (Act, subsection 24 (1).]”.

29.13 Clause 682.711 and note:

Omit the clause and note, substitute:

“682.711 (1) Subject to subclause (2), the application must be made in accordance with approved form 2.

“(2) An application by a person who is included in the passport of another applicant for a Class 682 entry permit may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.28 and the fee (if any) specified in clause 682.822 must be paid (Act, subsection 34 (1).]”.

29.14 After clause 682.736, insert:

“682.737 If so requested by the Minister, an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.”.

29.15 Subclause 682.811 (1):

Omit the subclause, substitute:

“(1) Before or after entry:

- (a) separate application: \$30;
- (b) application combined with another application on which the fee is paid: Nil.”.

29.16 Paragraph 682.822 (b):

Omit the paragraph, substitute:

- “(b) in the case of an application combined with another application on which the fee is paid: Nil; or
- (c) in any other case: \$100.”.

29.17 Clause 683.311 and note:

Omit the clause and note, substitute:

“683.311 (1) Subject to subclause (2), the application must be made in accordance with approved form 48.

“(2) An application by a person who is included in the passport of another applicant for a Class 683 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.13 and the fee (if any) specified in clause 683.811 must be paid (Act, subsection 24 (1).]”.

29.18 Clause 683.411 and note:

Omit the clause and note, substitute:

“683.411 (1) Subject to subclause (2), the application must be made in accordance with approved form 43.

“(2) An application by a person who is included in the passport of another applicant for a Class 683 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.14 and the fee (if any) specified in clause 683.811 must be paid (Act, subsection 24 (1).]”.

29.19 Clause 683.711 and note:

Omit the clause and note, substitute:

“683.711 (1) Subject to subclause (2), the application must be made in accordance with approved form 2.

“(2) An application by a person who is included in the passport of another applicant for a Class 683 entry permit may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.28 and the fee (if any) specified in clause 683.822 must be paid (Act, subsection 34 (1).]”.

29.20 After clause 683.737, insert:

“683.738 If so requested by the Minister, an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.”.

29.21 Subclause 683.811 (1):

Omit the subclause, substitute:

“(1) Before or after entry:

- (a) separate application: \$30;
- (b) application combined with another application on which the fee is paid: Nil.”.

29.22 Paragraph 683.822 (b):

Omit the paragraph, substitute:

- “(b) in the case of an application combined with another application on which the fee is paid: Nil; or
- (c) in any other case: \$100.”.

29.23 Clause 684.311 and note:

Omit the clause and note, substitute:

“684.311 (1) Subject to subclause (2), the application must be made in accordance with approved form 48.

“(2) An application by a person who is included in the passport of another applicant for a Class 684 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.13 and the fee (if any) specified in clause 684.811 must be paid (Act, subsection 24 (1).]”.

29.24 Subclause 684.321 (5):

Omit all the words before paragraph (a), substitute:

“(5) An applicant meets the requirements of this subclause if the applicant:”.

29.25 Clause 684.411 and note:

Omit the clause and note, substitute:

“684.411 (1) Subject to subclause (2), the application must be made in accordance with approved form 43.

“(2) An application by a person who is included in the passport of another applicant for a Class 684 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.14 and the fee (if any) specified in clause 684.811 must be paid (Act, subsection 24 (1).]”.

29.26 Clause 684.711 and note:

Omit the clause and note, substitute:

“684.711 (1) Subject to subclause (2), the application must be made in accordance with approved form 2.

“(2) An application by a person who is included in the passport of another applicant for a Class 684 entry permit may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.28 and the fee (if any) specified in clause 684.822 must be paid (Act, subsection 34 (1).]”.

29.27 Subparagraph 684.731 (1) (b) (ii):

Omit the subparagraph, substitute:

“(ii) satisfies the addititonal criteria (if any) applicable under subclause (2), (3) or (4).”.

29.28 Subclause 684.811 (1):

Omit the subclause, substitute:

“(1) Before or after entry:

(a) separate application: \$30;

(b) application combined with another application on which the fee is paid: Nil.”.

29.29 Paragraph 684.822 (b):

Omit the paragraph, substitute:

“(b) in the case of an application combined with another application on which the fee is paid: Nil; or

(c) in any other case: \$100.”.

29.30 Clause 685.311 and note:

Omit the clause and note, substitute:

“685.311 (1) Subject to subclause (2), the application must be made in accordance with approved form 48.

“(2) An application by a person who is included in the passport of another applicant for a Class 685 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.13 and the fee (if any) specified in clause 685.811 must be paid (Act, subsection 24 (1).]”.

29.31 Paragraph 685.321 (2) (d):

Omit “Government”, substitute “government”.

29.32 Clause 685.337:

Omit “subclause 685.221 (4)”, substitute “subclause 685.321 (4)”.

29.33 Clause 685.411 and note:

Omit the clause and note, substitute:

“685.411 (1) Subject to subclause (2), the application must be made in accordance with approved form 43.

“(2) An application by a person who is included in the passport of another applicant for a Class 685 visa may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.14 and the fee (if any) specified in clause 685.811 must be paid (Act, subsection 24 (1).]”.

29.34 Clause 685.711 and note:

Omit the clause and note, substitute:

“685.711 (1) Subject to subclause (2), the application must be made in accordance with approved form 2.

“(2) An application by a person who is included in the passport of another applicant for a Class 685 entry permit may be combined with, and lodged at the same time as, the application by the other applicant.

[NOTE: Before an application will be considered it must be lodged in accordance with regulation 2.28 and the fee (if any) specified in clause 685.822 must be paid (Act, subsection 34 (1).]”.

29.35 Subclause 685.811 (1):

Omit the subclause, substitute:

“(1) Before or after entry:

- (a) separate application: \$30;
- (b) application combined with another application on which the fee is paid: Nil.”.

29.36 Paragraph 685.822 (b):

Omit the paragraph, substitute:

- “(b) in the case of an application combined with another application on which the fee is paid: Nil; or
- (c) in any other case: \$100.”.

30. Schedule 2, Chapter 2.4 (Visitor (short stay) visas and entry permits)

30.1 Clause 670.711 note:

Omit “(Act, subsection 24 (1)).]”, substitute “(Act, subsection 34 (1)).]”.

30.2 Clauses 672.336 and 672.736:

Omit the clauses.

30.3 Clause 672.711 note:

Omit “(Act, subsection 24 (1)).]”, substitute “(Act, subsection 34 (1)).]”.

30.4 Subdivision 673.12 note:

Omit “primary applicants”, substitute “primary persons”.

30.5 Paragraph 673.421 (2) (a):

Omit “as a primary person”.

30.6 Clause 673.711 note:

Omit “(Act, subsection 24 (1)).]”, substitute “(Act, subsection 34 (1)).]”.

30.7 Clause 674.711 note:

Omit “(Act, subsection 24 (1)).]”, substitute “(Act, subsection 34 (1)).]”.

30.8 Paragraph 675.321 (2) (d):

Omit “Government”, substitute “government”.

30.9 Paragraph 675.336 (b):

Omit “is free from any other”, substitute “is free from any other”.

30.10 Paragraph 675.336 (c):

Omit “is free from any disease”, substitute “is free from any disease”.

30.11 Clause 675.711 note:

Omit “(Act, subsection 24 (1)).]”, substitute “(Act, subsection 34 (1)).]”.

31. Schedule 2, Chapter 2.5 (Extended eligibility visas and entry permits)**31.1 Clause 820.521:**

Omit the clause, substitute:

“820.521 A Class 820 entry permit has effect:

- (a) in the case of the first Class 820 entry permit granted after entry to a person—for 26 months from the date on which application was made for the entry permit; and
- (b) in the case of a Class 820 entry permit granted before entry—for the period specified in the Class 820 visa held by the person; and
- (c) in the case of a Class 820 entry permit the application for which is constituted by an application referred to in subclause 820.711 (3)—until the applicant is notified that the application for the Class 801 (spouse (after entry)) entry permit has been decided.”.

31.2 Paragraph 820.721 (5) (b):

Omit “, that authorised a stay in Australia of 3 months”.

31.3 Sub-subparagraph 820.731 (3) (b) (iv) (B):

Omit “formal maintenance order.”, substitute “formal maintenance obligation.”.

31.4 Clause 820.821:

Omit the clause, substitute:

“820.821 Before entry: Nil.”.

31.5 Clause 826.521:

Omit the clause, substitute:

“826.521 A Class 826 entry permit has effect:

- (a) in the case of the first Class 826 entry permit granted after entry to a person—for 26 months from the date on which application was made for the entry permit; and
- (b) in the case of a Class 826 entry permit granted before entry—for the period specified in the Class 826 visa held by the person; and

- (c) in the case of a Class 826 entry permit the application for which is constituted by an application referred to in subclause 826.711 (3)—until the applicant is notified that the application for the Class 814 (interdependency (permanent)) entry permit has been decided.”.

31.6 Subparagraph 826.722 (2) (e) (ii):

Omit “a Class 305 (interdependency) entry permit”, substitute “a Class 305 (interdependency (temporary)) entry permit”.

31.7 Clause 826.821:

Omit the clause, substitute:

“826.821 Before entry: Nil.”.

31.8 Clause 826.822:

Omit the clause, substitute:

“826.822 After entry:

- (a) application by an applicant referred to in subclause 826.722 (2) or (4): \$780;
- (b) application taken to have been made under clause 826.711 (3): Nil;
- (c) application combined with another application on which any applicable fee has been paid: Nil.”.

32. Schedule 2, Chapter 2.6 (Refugee and humanitarian (temporary entry) visas and entry permits)

32.1 Clause 435.711 note:

Omit “clause 435.822”, substitute “clause 435.821”.

32.2 Paragraph 435.732 (a):

Omit the paragraph, substitute:

- “(a) the applicant has undergone a medical examination carried out by a Commonwealth medical officer; and”.

32.3 Subdivision 443.12:

Omit “dependents.”, substitute “dependants.”.

32.4 Clause 443.711 note:

Omit “clause 443.822”, substitute “clause 443.821”.

32.5 Clause 443.731:

Omit “criteria”, substitute “criterion”.

32.6 Clause 490.735:

Omit the clause, substitute:

“490.735 The applicant meets public interest criteria 4001 to 4004 and 4007.”.

32.7 Clause 784.131 (definition of “relevant date”, subparagraphs (c) (iii) and (iv)):

Omit the subparagraphs, substitute:

“(iii) a refugee (restricted) (code number 781) visa or entry permit granted under the Migration (1989) Regulations and issued on or after 12 July 1990 and before 27 February 1991; and”.

32.8 Clause 784.131 (definition of “relevant date”, subparagraphs (d) (iii) and (iv)):

Omit the subparagraphs, substitute:

“(iii) a refugee (restricted) (code number 781) visa or entry permit granted under the Migration (1989) Regulations and issued on or after 12 July 1990 and before 27 February 1991; and”.

32.9 Clause 784.411 note:

Omit “clause 784.811”, substitute “clause 784.812”.

32.10 Paragraph 784.511 (b):

Omit “for a refugee status.”, substitute “for refugee status.”.

33. Schedule 2, Chapter 2.7 (Provisional visas and entry permits)

33.1 Subdivision 300.12:

Omit “To authorise travel to Australian by,”, substitute “To authorise travel to Australia by,”.

33.2 Subclause 300.22 (1):

Omit all the words before paragraph (a), substitute:

“300.221 Class 300 visa granted for initial travel to Australia.”.

33.3 Subclause 300.22 (2):

Omit all the words before paragraph (a), substitute:

“300.222 Class 300 visa granted for return travel to Australia.”.

33.4 Subdivision 300.82:

Omit the Subdivision, substitute:

“300.82 Entry permit applications

“300.821 Before entry: Nil.

300.822 After entry: \$100.”.

33.5 Paragraph 301.211 (a):

Omit the paragraph, substitute:

“(a) applied for and granted either within or outside Australia, but not at the Entry Control Point; and”.

33.6 Clause 302.322:

Omit “Group 1.1 (Migrant) or Group 1.3 (Permanent resident—refugee and humanitarian)”, substitute “Group 1.1 (migrant) or Group 1.3 (permanent resident (refugee and humanitarian))”.

33.7 Clause 302.711 note:

Omit “clause 302.812”, substitute “clause 302.822”.

34. Schedule 2, Chapter 2.8 (Miscellaneous visas and entry permits)**34.1 Clause 771.334:**

Omit the clause, substitute:

“771.334 If the applicant has previously been in Australia, the applicant satisfies special re-entry criteria 5001, 5003, 5005, 5007 and 5009 to 5011.”.

34.2 Clause 771.341:

Omit the clause, substitute:

“771.341 Mandatory conditions: 9101, 9106, 9201 and 9202.”.

34.3 Clause 771.341 note 2:

Omit “Class 410”, substitute “Class 771”.

34.4 Clause 773.333:

Omit the clause, substitute:

“773.333 If the applicant has previously been in Australia, the applicant satisfies special re-entry criteria 5001, 5003, 5005, 5007 and 5009 to 5011.”.

34.5 Clause 828.411 note:

Omit “clause 828.1”, substitute “clause 828.81”.

34.6 Paragraph 828.421 (a):

Omit the paragraph, substitute:

“(a) is the holder of:

- (i) a Class 828 entry permit that was granted for a period ending on or after the day by which, according to the application, the applicant intends next to enter Australia; or
- (ii) a processing entry permit (code number 825) granted under the Migration (1989) Regulations for which the application by the principal person was constituted by an application for a temporary entry permit; and”.

34.7 Clause 829.131 (definition of “principal application”):

After paragraph (e), insert:

“(ea) a Class 808 (confirmatory) entry permit;”.

34.8 Clause 829.411 note:

Omit “clause 829.1”, substitute “clause 829.81”.

34.9 Clause 829.421:

Omit the clause, substitute:

“829.421 The applicant:

- (a) is the holder of a Class 829 entry permit; or
- (b) is the holder of a processing entry permit (code number 825) granted under the Migration (1989) Regulations as a result of an application for:
 - (i) an extended eligibility entry permit; or
 - (ii) a December 1989 (temporary) (code number 440), spouse (after entry) (code number 801), child (after entry) (code number 802), aged parent (after entry) (code number 804), skilled occupation (code number 805), confirmatory (code number 808) or December 1989 (permanent) (code number 812) entry permit;

and is in Australia.”.

34.10 Clause 829.711 note:

Omit “Class 801 (spouse) (after entry)
Class 802 (child) (after entry)
Class 804 (aged parent) (after entry)”,

substitute:

“Class 801 (spouse (after entry))
Class 802 (child (after entry))
Class 804 (aged parent (after entry))”.

34.11 Clause 829.711 note:

Omit “Class 812 (December 1989 (permanent))”,
substitute:

“Class 808 (confirmatory)
Class 812 (December 1989 (permanent))”.

35. Schedule 3 (Provisions with respect to the grant of visas and entry permits included in certain groups to secondary persons)

35.1 Paragraph 012.711 (b):

Omit “approved form 887”, substitute “approved form 887.”.

35.2 Subparagraph 013.333 (b) (i):

Omit “a Class 200 (Refugee),”, substitute “a Class 200 (refugee),”.

35.3 Paragraph 013.334 (a):

Omit the paragraph, substitute:

“(a) if he or she is an applicant for a Class 200 (refugee), Class 201 (in-country special humanitarian program), Class 202 (global special humanitarian program), Class 203 (emergency rescue) or Class 204 (woman at risk) visa—special re-entry criteria 5001, 5009 and 5010; or”.

35.4 Paragraph 013.334 (b):

Omit “5002,”.

35.5 Paragraphs 021.341 (b) and (c):

Omit the paragraphs, substitute:

“(b) in the case of a Class 410 (retirement) or a Class 432 (expatriate) visa: 9101; and
(c) in the case of a Class 426 (domestic worker (diplomatic or consular)) visa: 9219; and”.

35.6 Clause 021.433:

Omit “a Class 426 (domestic worker (diplomatic and consular)) visa”, substitute “a Class 426 (domestic worker (diplomatic or consular)) visa”.

35.7 Paragraphs 021.441 (b), (c) and (d):

Omit the paragraphs, substitute:

“(b) in the case of a Class 426 (domestic worker (diplomatic or consular)) visa: 9219; and
(c) in the case of Class 442 (occupational trainee) visa: 9213; and
(d) in the case of a Class 410 (retirement) or a Class 432 (expatriate) visa: 9101.”.

35.8 Clause 021.722:

Omit “a Class 426 (domestic worker (diplomatic and consular)) visa”, substitute “a Class 426 (domestic worker (diplomatic or consular)) visa”.

35.9 Paragraph 021.741 (b):

Omit “(diplomatic and consular)”, substitute “(diplomatic or consular)”.

35.10 Paragraph 021.741 (d):

Omit the paragraph, substitute:

“(d) in the case of a Class 410 (retirement) or a Class 432 (expatriate) entry permit: 9101.”.

35.11 Clause 022.121, definition of “type C circumstances”:

Omit the definition, substitute:

“ ‘**type C circumstances**’, in relation to an application by a secondary person, means the circumstances that:

- “(a) the application is not an application to which type B circumstances apply; and
- (b) the relevant primary person either:
 - (i) has been granted a visa or entry permit in relation to a course of a duration of 12 months or more; or
 - (ii) has been lawfully in Australia for 12 months or more; or
 - (iii) was enrolled (as the holder, as a primary person, of a Class 561 entry permit) in a college that ceased teaching operations.”.

35.12 Subclause 022.311 (1):

Omit “or approved form 157Y”, substitute “or approved form 157Y”.

35.13 Paragraph 022.333 (a):

Omit the paragraph, substitute:

- “(a) either:
 - (i) a citizen of a gazetted country; or
 - (ii) a person who is normally resident in, and has an unlimited right of re-entry to, a country specified by Gazette Notice for the purposes of paragraph (b) of the definition of ‘type B circumstances’ in clause 022.121; or”.

35.14 Subparagraph 022.333 (c) (i):

Omit the subparagraph, substitute:

“(i) is not a person referred to in paragraph (a); and”.

35.15 Paragraph 022.741 (1) (a):

Omit the paragraph, substitute:

“(a) in all cases: 9109, 9203 and (subject to subclause (2)) 9111; and”.

35.16 Paragraph 022.741 (1) (b):

Omit “a Class 561 en try permit”, substitute “a Class 561 entry permit”.

35.17 Subclause 027.221 (1):

Omit all the words before paragraph (a), substitute:

“(1) In the case of a Class 300 (prospective marriage) visa granted for initial travel to Australia:”.

35.18 Subclause 027.221 (2):

Omit all the words before paragraph (a), substitute:

“(2) In the case of a Class 300 (prospective marriage) visa granted for return travel to Australia:”.

35.19 Clause 027.221:

Add at the end:

“(3) In the case of a Class 301 (Australian requirement) visa or of a Class 302 (emergency (permanent entry)) visa: as individually determined by the Minister.”.

35.20 Clause 027.337 note:

Omit “relevasnt”, substitute “relevant”.

35.21 Paragraphs 027.441 (a), (b) and (c):

Omit the paragraphs, substitute:

“(a) in the case of a Class 300 (prospective marriage) visa authorising the holder of the visa to stay in Australia for 3 months: 9230;

(b) in the case of any other Class 300 (prospective marriage) visa: 9208;

- (c) in the case of a Class 301 (Australian requirement) visa: 9210;
- (d) in the case of a Class 302 (emergency (permanent entry)) visa: Nil.”.

36. Schedule 4 (Public interest criteria)

36.1 Clause 4001:

Omit the clause, substitute:

“4001. (1) The applicant meets the requirements of subclause (2), (3) or (4).

(2) An applicant meets the requirements of this subclause if, after appropriate enquiries, the Minister has decided that there is no evidence of anything that might justify the refusal, under section 180A of the Act, to grant the visa or entry permit.

(3) An applicant meets the requirements of this subclause if, after appropriate enquiries and consideration of all available evidence of anything that might justify the refusal, under section 180A of the Act, to grant the visa or entry permit, the Minister has decided that that evidence is insufficient to satisfy the Minister of any of the matters referred to in paragraph (1) (b) and subsection (2) of that section.

(4) An applicant meets the requirements of this subclause if, despite being satisfied that the refusal, under section 180A of the Act, to grant the visa or entry permit is justified, the Minister has decided not to exercise the power under that section to refuse to grant the visa or entry permit.”.

36.2 Clause 4002:

Omit the clause, substitute:

“4002. The applicant is not assessed by the competent Australian authorities to be directly or indirectly a risk to Australian national security.”.

36.3 Subclause 4007 (2):

Omit all the words before paragraph (a), substitute:

“(2) The Minister may waive the requirements of subclause (1) if:”.

36.4 Subparagraph 4007 (2) (b) (iii):

Omit “with disease”, substitute “with a disease”.

36.5 Subclause 4008 (2):

Omit all the words before paragraph (a), substitute:

“(2) The Minister may waive the requirements of subclause (1) if:”.

36.6 Subparagraph 4008 (2) (b) (iii):

Omit “with disease”, substitute “with a disease”.

36.7 Paragraph 4011 (2) (a):

Omit “for the purpose of residence in Australia”, substitute “for the purpose of permanent residence in Australia”.

37. Schedule 5 (Special re-entry criteria)

37.1 Paragraph 5004 (a):

Omit the paragraph, substitute:

“(a) compliance action by Immigration resulting in the detection of the whereabouts of the person, being an illegal entrant or a prohibited non-citizen; or”.

37.2 Paragraphs 5006 (a) and 5007 (a):

Omit “person who has”, substitute “a person who has”.

37.3 Paragraphs 5006 (b) and 5007 (b):

Omit “person who:”, substitute “a person who:”.

37.4 Paragraphs 5009 (c) and 5010 (c):

Omit the paragraphs, substitute:

“(c) on or after 10 December 1990 made an unsuccessful application for:

- (i) a December 1989 (temporary) (code number 440) or a December 1989 (permanent) (code number 812) entry permit granted under the Migration (1989) Regulations; or
- (ii) a Class 812 (December 1989 (permanent)) entry permit; and”.

38. Schedule 6 (Illegal entrant criteria)

38.1 Clause 6001:

Omit “subsection 14 (2) of the Act”, substitute “subsection 14 (2) or (2A) of the Act”.

38.2 Clause 6002:

Omit “arrested” (first occurring), substitute “detained in custody”.

38.3 Paragraphs 6002 (a) and (b):

Omit “so arrested” (wherever occurring), substitute “so detained”.

38.4 Clause 6003:

Omit “is within”, substitute “is made within”.

38.5 Clause 6006:

Omit “the entry permit”, substitute “an entry permit”.

39. Schedule 7 (General points test—qualifications and points)

39.1 Subparagraphs 7102 (e) (i) and 7104 (e) (i):

Omit “by a CTC or NOOSR,”, substitute “by a CTC or by NOOSR,”.

39.2 Subparagraph 7105 (b) (ii):

Omit the subparagraph, substitute:

“(ii) in the case of a person who has a qualification referred to in subparagraph 7104 (c) (i)—after acquiring that qualification.”.

39.3 Paragraph 7601 (b):

Omit “at the time Immigration receives the relevant sponsorship,”, substitute “at the time Immigration receives the relevant sponsorship,”.

40. Schedule 8 (Business skills points test—attributes and points)

40.1 Clauses 8204 and 8205:

Omit the clauses, substitute:

“8204 Not less than 50 years but under 55 years 10

8205 Less than 25 years or 55 years or more 0”.

40.2 Clause 8303, column 2:

Omit “and enrolment in a designated English language course before entry to Australia”.

40.3 Clause 8304, column 2:

Omit “and applicant has enrolment in a designated English language course before entry to Australia”.

40.4 Clause 8305, column 2:

Omit “Low or no”, substitute “No”.

41. Schedule 9 (Visa and entry permit conditions)

41.1 Clause 9227:

Omit the clause, substitute:

“9227. Each secondary person in relation to the holder (being a spouse of the holder, an unmarried child of the holder who has not turned 18, or a person intending to marry the holder not later than 3 months after entering Australia) who is, on that account, the holder of a Class 560 or 561 entry permit must leave Australia not later than the time of departure of the holder.”.

42. Schedule 11 (Prescribed forms)

42.1 Forms 1, 2, 3 and 4:

Omit “Department of Immigration, Local Government and Ethnic Affairs”, substitute “Department of Immigration and Ethnic Affairs”.

42.2 Form 1, paragraph 3 (6):

Omit “Migration Regulations”, substitute “Migration (1993) Regulations”.

43. Schedule 12 (Repealed Statutory Rules)

43.1 Add at the end “; 1993 No. 17.”.

44. Transitional

44.1 Clause 801.732 in Chapter 1.2 of Schedule 2 to the Migration (1993) Regulations (as in force immediately before the date of commencement of subregulations 24.6 and 24.7 of these Regulations) has effect in relation to an application made before that date for a Class 801 (spouse (after entry)) entry permit as if, in paragraphs (7) (a), (7A) (a), (8) (a) and (10) (a), there were substituted for the word “is” the words “is, or was at the time of making the application,”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 28 May 1993.
2. Statutory Rules 1992 No. 367 as amended by 1993 Nos. 19 and 29.