Migration (1993) Regulations (Amendment) 1993 No. 218

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 218

Issued by the Authority of the Minister for Immigration and Ethnic Affairs

Migration Act 1958

Migration (1993) Regulations (Amendment)

Section 181 of the Migration Act 1958 (the Act) provides for the Governor-General to make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act. Sections 23 and 33 of the Act enable regulations to be made providing for different classes of visas and entry permits. In addition, without limiting the generality of section 181, particular provision is made in relation to the following matters:

- paragraph 181(1)(a) of the Act provides that regulations may provide for the charging and recovery of fees in respect of any matter under the Act or the Regulations; and

- paragraph 181(1)(ja) of the Act provides that regulations may be made enabling a person who is alleged to have contravened section 50D to pay to the Commonwealth, as an alternative to prosecution, a prescribed penalty, not exceeding $1,000.

The purpose of the Regulations is:

- to make provisions which enable a person who is alleged to have contravened section 50D (information from business permit holders) of the Act to pay, as an alternative to prosecution, a prescribed penalty of $250 where the person fails to provide his or her address and a penalty of $1,000 in any other case;

- to amend Class 801 and Class 814 to enable a child who is declared as a dependant of a primary applicant to be deemed to be included in the applicant's application upon the child's arrival in Australia;

- to extend the period for which a Class 435 (Sri Lankan (temporary)) entry permit may be granted to 31 January 1994;

- to extend the period for which a Class 443 (Citizens of the former Socialist Federal Republic of Yugoslavia (temporary)) entry permit may be granted to 31 January 1994; and

- to make a number of clarifying and correcting amendments which do not involve substantive changes to policy, but will ensure that the Migration (1993) Regulations accurately implement the intended policy.

The regulations commence on gazettal, with the following exceptions:

- regulation 8 which amends the provisions relating to the grant of Group 1.2 (Permanent resident (after entry)) entry permits commences retrospectively on 1 February 1993 (the date of commencement of the Migration (1993) Regulations). The purpose of this regulation is to clarify and extend the range of eligible applicants intended, but inadvertently not implemented in the Migration (1993) Regulations;

- subregulations 10.1 to 10.4 inclusive which amend the provisions relating to the grant of Group 2.2 (Student) visas and entry permits commence retrospectively on 1 February 1993 (the date of commencement of the Migration (1993) Regulations). The purpose of these subregulations is to clarify and extend the range of eligible applicants intended, but inadvertently not implemented in the Migration (1993) Regulations;

- subregulations 14.1 to 14.4 inclusive which extend the period of validity of the Class 435 (Sri Lankan (temporary)) and Class 443 (Citizens of the former Socialist Federal Republic of Yugoslavia (temporary)) entry permits to 31 January 1994 commence retrospectively on 15 June 1993, the date on which the policy decision to extend the validity of these entry permits was made; and

- regulation 19, which rectifies an inadvertent error in Statutory Rules 1993 No. 29, commences retrospectively on 12 February 1993 (the date Statutory Rules 1993 No. 29 was notified in the *Gazette);* retrospective commencement of this regulation is technically necessary to fully rectify the error.

Retrospective commencement of these regulations and subregulations is entirely beneficial to the applicants concerned, and is not prejudicial to any person. Retrospective commencement therefore is in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Details of each of the Regulations are set out in the Attachment.

ATTACHMENT

Regulation 1 - Commencement

Subregulation 1.1 provides that regulation 8 and subregulations 10.1 to 10.4 (inclusive) are taken to have commenced on 1 February 1993. Regulation 8 makes amendments to the prescribed criteria relating to a number of Group 1.2 (Permanent resident (after entry)) entry permits. Subregulations 10.1 to 10.4 amend the prescribed criteria in relation to Group 2.2 (Student) visas and entry permits. The purpose of these amendments is to ensure that the regulations concerned accurately reflect the intended policy, and their general effect is to clarify and extend the range of applicants who are able to meet the prescribed criteria but who were previously inadvertently omitted from the provisions. (See the notes below on the individual

regulations for further details of their operation.) As this has always been the intended effect of the regulations, the amendments are made to commence retrospectively on 1 February 1993 (the commencement date of the Migration (1993) Regulations). Retrospectivity is entirely beneficial to the applicants concerned and is not prejudicial to any person. It is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 1.2 provides that regulation 19 is taken to have commenced on 12 February 1993. Regulation 19 inserts a commencement provision inadvertently omitted from Statutory Rules 1993 No. 29 (which was notified in the *Gazette* on 12 February 1993). This amendment is necessary to ensure the commencement of regulation 7.8AA of the Migration (1993) Regulations, the operation of which is entirely beneficial to certain applicants and is not prejudicial to any person. Retrospective commencement of subregulation 1.2 is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 1.3 provides that subregulations 14,1 to 14.4 (inclusive) are taken to have commenced on 15 June 1993. The effect of these subregulations is to extend to 31 January 1994 the period for which Class 435 (Sri Lankan (temporary)) and Class 443 (Citizens of the former Socialist Federal Republic of Yugoslavia (temporary)) entry permits may be granted. The policy decision to extend the operation of these entry permits was made on 15 June 1993, and retrospective commencement of these subregulations on that date is beneficial to applicants who applied on or after 15 June 1993 as it enables the grant to them of entry permits valid until 31 January 1994. It is not prejudicial to any person and is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Regulation 2 - Amendment

This regulation provides for the Migration (1993) Regulations to be amended as set out in these Regulations.

Regulation 3 - Regulation 1.3 (Interpretation)

This regulation amends the definition of "special need relative" in regulation 1.3 of the Migration (1993) Regulations, to put beyond doubt the policy intention that a person is not a "special need relative" if the assistance referred to in the definition can reasonably be obtained from any one of the sources listed in paragraph (b) of the definition.

Regulation 4 - Regulation 7.8AA (Prescribed evidence (paragraph 4(1A)(b) of the Act)

This regulation amends regulation 7.8AA of the Migration (1993) Regulations by adding a new paragraph (ea) which provides that, for the purposes of paragraph 4(1A)(b) of the Act, evidence that a person has been assessed as having functional English by the provider of a course that is an approved English course for the purposes of section 4 of the Immigration (Education) Act 1971 is prescribed evidence of the English language proficiency of the person.

Regulation 5 - Regulation 7.16 (Section 76 of Art - prescribed penalty)

This regulation omits regulation 7.16 of the Migration (1993) Regulations and substitutes a new regulation 7.16 (Prescribed penalties - sections 50D and 76 of the Act). The new regulation prescribes a penalty for the purposes of paragraph 18 1(1)(ja) of the Act, which a person who is alleged to have contravened section 50D of the Act may pay as an alternative to prosecution. The penalty prescribed is $250 in the case of failure by a person to supply the person's address when requested to do so by the Secretary, and $1,000 in any other case. (These Regulations also amend regulation 7.17 of the Migration (1993) Regulations to include provision for a person to pay the prescribed penalty as an alternative to prosecution, on allegation that the person has contravened section 50D. See the notes on regulation 6, below.)

The substituted regulation 7.16 continues to prescribe a penalty of $1,000 for the purposes of paragraph 18 1(1)(j) of the Act, which a person who is alleged to have contravened section 76 of the Act may pay as an alternative to prosecution.

Regulation 6 - Regulation 7.17 (Infringement notices - contraventions of sections 50D and 76 of the Act)

This regulation makes a number of amendments to regulation 7.17 of the Migration (1993) Regulations so that it provides for the serving of an infringement notice on a person who is alleged to have contravened section 50D of the Act, as well as for the serving of an infringement notice on a person who is alleged to have contravened section 76 of the Act. Section 50D of the Act imposes certain obligations on persons who entered Australia as business migrants to provide information as requested by the Secretary.

The effect of the serving of an infringement notice is that the person who is alleged to have contravened the relevant section of the Act then has the alternative of either being prosecuted for the alleged contravention or paying the prescribed penalty appropriate to the alleged contravention. (The penalty is prescribed by regulation 7.16 of the Migration (1993) Regulations, as amended by these Regulations. See the notes on regulation 5, above.)

Regulation 7 - Schedule 2, Chapter 1.1 (Migrant visas and entry permits)

Part 100 - Class 100 (Spouse) visa and entry permit

Subregulation 7.1 omits subdivision 100.12 of the Migration (1993) Regulations and substitutes a new subdivision 100.12. The new subdivision 100.12 refers to the purpose of grant of a Class 100 (spouse) visa and entry permit to primary persons, instead of referring to persons eligible to apply as primary persons. This amendment is intended only to give a clearer general description of the Class 100 (spouse) visa and entry permit, and does not reflect any change in policy.

Subregulation 7.2 amends paragraph 100.321(3)(b) of the Migration (1993) Regulations to omit the words "Part VA of the Marriage Act 1961 as applied by". The effect of these words was to limit the marriages which satisfied paragraph (b) to those marriages which are valid for the purposes of Part VA of the Marriage Act 1961

except for section 88E (as this is how Part VA is applied by section 12 of the Act). However, the intended effect of paragraph is that any marriage recognised as a valid marriage under the Marriage Act 1961 as applied by section 12 of the Act is to be able to meet the provision; that is, any marriage valid for any of the provisions of the Marriage Act 1961 except for section 88E is to be able to satisfy the criterion at paragraph (b). The amendment made by this subregulation ensures that paragraph 100.321(3)(b) operates as intended by policy.

Subregulation 7.3 corrects the note following subclause 100.321(3) of the Migration (1993) Regulations. The note was incorrect in stating that the intended marriage referred to in subclause 100.321(3) must have taken place before a decision is made on the application, because if the marriage fails to take place a decision may be made to refuse the application. It is correct to say that the marriage must take place before the applicant can be granted a Class 100 (spouse) visa.

Part 101 - Class 101 (Child) visa and entry permit

Subregulation 7.4 omits subdivision 101.12 of the Migration (1993) Regulations and substitutes a new subdivision 101.12. The new subdivision 101.12 refers to the purpose of grant of a Class 101 (child) visa and entry permit to primary persons, instead of referring to persons eligible to apply as primary persons. This amendment is intended only to give a clearer general description of the Class 101 (child) visa and entry permit, and does not reflect any change in policy.

Subregulation 7.5 makes a minor technical amendment to clause 101.333 of the Migration (1993) Regulations.

Subregulation 7.6 clarifies the numbering of clause 101.336 of the Migration (1993) Regulations by inserting "(1)" after "101.336".

Subregulation 7.7 inserts a new clause 101.338 in the Migration (1993) Regulations to require that the criterion at clause 101.321, which must be satisfied at time of application for a Class 101 (child) visa, must continue to be satisfied at the time of decision.

Part 102 - Class 102 (Adoption) visa and entry permit

Subregulation 7.8 omits subdivision 102.12 of the Migration (1993) Regulations and substitutes a new subdivision 102.12. The new subdivision 102.12 refers to the purpose of grant of a Class 102 (adoption) visa and entry permit to primary persons, instead of referring to persons eligible to apply as primary persons. This amendment is intended only to give a clearer general description of the Class 102 (adoption) visa and entry permit, and does not reflect any change in policy.

Subregulation 7.9 inserts a new clause 102.337 in the Migration (1993) Regulations to require that the criterion at clause 102.321, which must be satisfied at time of application for a Class 102 (adoption) visa, must continue to be satisfied at the time of decision.

Part 103 - Class 103 (Parent) visa and entry permit

Subregulation 7.10 omits subdivision 103.12 of the Migration (1993) Regulations and substitutes a new subdivision 103.12. The new subdivision 103.12 refers to the purpose of grant of a Class 103 (parent) visa and entry permit to primary persons, instead of referring to persons eligible to apply as primary persons. This amendment is intended only to give a clearer general description of the Class 103 (parent) visa and entry permit, and does not reflect any change in policy.

Part 104 - Class 104 (Preferential family) *visa and entry permit*

Subregulation 7.11 omits subdivision 104.12 of the Migration (1993) Regulations and substitutes a new subdivision 104.12. The new subdivision 104.12 refers to the purpose of grant of a Class 104 (preferential family) visa and entry permit to primary persons, instead of referring to persons eligible to apply as primary persons. This amendment is intended only to give a clearer general description of the Class 104 (preferential family) visa and entry permit, and does not reflect any change in policy.

Subregulation 7.12 inserts two additional clauses 104.337 and 104.338 after clause 104.336 of the Migration (1993) Regulations. The purpose of the new clause 104.337 is to put it beyond doubt that the sponsorship referred to in paragraph 104.321(2)(b) or 104.321(3)(b) is required, at the time of decision, to have been approved by the Minister and to be still in force. New clause 104.338 provides that where the applicant is an orphan relative, the Minister is required to be satisfied that the grant of the visa would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

Part 105 - Class 105 (Concessional family) visa and entry permit

Subregulation 7.13 omits subdivision 105.12 of the Migration (1993) Regulations and substitutes a new subdivision 105.12. The new subdivision 105.12 refers to the purpose of grant of a Class 105 (concessional family) visa and entry permit to primary persons, instead of referring to persons eligible to apply as primary persons. This amendment is intended only to give a clearer general description of the Class 105 (concessional family) visa and entry permit, and does not reflect any change in policy.

Subregulation 7.14 amends paragraph 105.321(a) of the Migration (1993) Regulations by adding the requirement that the sponsor referred to in clause 105.321 must be at least 18 years of age.

Subregulation 7.15 amends clause 105.331 of the Migration (1993) Regulations by adding the requirement that the sponsorship referred to in clause 105.321, in addition to being still in force, must have been approved by the Minister. This clarifies the intended operation of clause 105.331.

<u>Regulation 8 - Schedule 2, Chapter 1.2 (Permanent resident (after entry) entry permits)</u>

Part 801 - Class 801 (Spouse (after entry)) entry permit

Subregulation 8.1 amends subclause 801.711(1) of the Migration (1993) Regulations to include a reference to subclause 801.711(3), inserted by subregulation 8.2 of these Regulations (see notes on subregulation 8.2, below).

Subregulation 8.2 inserts a new subclause 801.711(3) in the Migration (1993) Regulations, to provide that where an applicant for a Class 801 entry permit declares that he or she has a dependent child outside Australia and that child subsequently is granted a Class 820 visa as the dependent child of that applicant and uses that visa to travel to Australia, on presentation of the Class 820 visa on arrival in Australia, the child is deemed to be included in the parent's application for a Class 801 entry permit. This provision is necessary as clause 801.511 of the Migration (1993) Regulations otherwise prevents a child outside Australia being included in the parent's application. As the effect of the provision is that on arrival in Australia the child does not have to lodge a separate application for a Class 801 entry permit or pay the fee, it is entirely beneficial to the applicants concerned. The provision does not disadvantage any applicant. Provision in these Regulations for retrospective commencement of subregulation 8.2 on 1 February 1993 (the date of commencement of the Migration (1993) Regulations) is therefore consistent with subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 8.3 omits subclause 801.732(9) of the Migration (1993) Regulations and substitutes a new subclause 801.732(9). The new subclause 801.732(9) refers not only to dependent children who were granted a Class 820 entry permit in Australia under Part 820 of Schedule 2, but also to dependent children who were granted a Class 820 visa overseas and subsequently used that visa to enter Australia as holders of a Class 820 entry permit.

This amendment enables the grant of a Class 801 entry permit to dependent children who were overseas at the time their parents applied for and were granted a Class 820 entry permit but who later came to Australia as holders of a Class 820 visa and on that basis are in Australia as holders of a Class 820 entry permit. It has always been the policy intention that these dependent children should be eligible for grant of a Class 801 entry permit, and this was the position under the Migration (1989) Regulations. However, by oversight this policy was not implemented in the Migration (1993) Regulations. The operation of this amendment is therefore made retrospective to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). Retrospective operation of the amendment is entirely beneficial to the applicants concerned as they would otherwise be ineligible for grant of a Class 801 entry permit. No applicants are disadvantaged, and it is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901,

Subregulation 8.4 inserts a new paragraph (d) in subclause 801.732(11) of the Migration (1993) Regulations. This paragraph provides that an applicant for a Class 801 entry permit who is a person referred to in subclause 801.732(5) or (6) (that is, a person whose marital relationship with an Australian citizen or permanent resident has ceased through death or domestic violence, respectively) does not have to have applied for the entry permit at least two years before the date of the decision. It has always been the policy intention that these applicants should be eligible for grant of a Class 801 entry permit immediately and this was the position under the Migration (1989) Regulations. However, by oversight the policy intention was not reflected in

the Migration (1993) Regulations. For this reason, the new paragraph (d) is made to operate retrospectively to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). Retrospectivity is entirely beneficial to the applicants concerned as it allows the immediate grant to them of a Class 801 entry permit. No applicants are disadvantaged, and it is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 8.5 inserts a new paragraph 801.821(ba) in the Migration (1993) Regulations, to provide that there is no fee for an application taken to have been made under the new subclause 801.711(3) inserted in the Migration (1993) Regulations by these Regulations (see the notes on subregulation 8.2, above). The new paragraph 801.821(ba) is taken to have commenced retrospectively on 1 February 1993, in line with the commencement of the new subclause 801.711(3). Retrospective commencement of the new paragraph is entirely beneficial to the applicants concerned and is not prejudicial to any person. It is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Part 805 - Class 805 (Skilled occupation) entry permit

Subregulation 8.6 omits paragraphs 805.723(1)(e) and (f) of the Migration (1993) Regulations, and substitutes a new paragraph (e). The new paragraph provides that the holder of any Group 2.6 (refugee and humanitarian (temporary)) entry permit, or two or more such entry permits permitting temporary residence in Australia for an aggregate period of more than 12 months, is able to satisfy the requirements of subclause 805.723(1). It has always been the policy intention that holders of Group 2.6 (refugee and humanitarian (temporary)) entry permits should be able to meet this requirement, and this was the position under the Migration (1989) Regulations. By oversight, the intended policy was not implemented in the Migration (1993) Regulations. The operation of this amendment is therefore made retrospective to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). Retrospectivity is entirely beneficial to the applicants concerned, and does not disadvantage any applicant. It is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Part 814 - Class 814 (Interdependency (permanent)) entry permit

Subregulation 8.7 omits clause 814.711 of the Migration (1993) Regulations and substitutes a new clause 814.711. The new clause 814.711 repeats the provisions of the omitted clause but in addition includes a new subclause 814.711(3), which provides that where an applicant for a Class 814 entry permit declares that he or she has a dependent child outside Australia and that child subsequently is granted a Class 826 visa as the dependent child of that applicant and uses the visa to travel to Australia, on presentation of the Class 826 visa on arrival in Australia, the child is deemed to be included in the parent's application for a Class 814 entry permit. This provision is necessary as clause 814.511 of the Migration (1993) Regulations otherwise prevents a child outside Australia being included in the parent's application. As the effect of the provision is that on arrival in Australia the child does not have to lodge a separate application for a Class 814 entry permit or pay the fee, it is entirely beneficial to the applicants concerned. This provision does not disadvantage any applicant. Provision in these Regulations for retrospective commencement of

subregulation 8.7 on 1 February 103 (the date of commencement of the Migration (1993) Regulations) is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 8.8 omits paragraphs 814.732(5)(a) and (b) of the Migration (1993) Regulations and substitutes new paragraphs (a) and (b). The new paragraph (a) refers not only to dependent children who were granted a Class 826 entry permit in Australia under Part 826 of Schedule 2, but also to dependent children who were granted a Class 826 visa overseas and subsequently used that visa to enter Australia as holders of a Class 826 entry permit. The effect of this amendment is to enable the grant of a Class 814 entry permit to dependent children who were overseas at the time their parents applied for and were granted a Class 826 entry permit but who later came to Australia as holders of a Class 826 visa and on that basis are in Australia as holders of a Class 826 entry permit. It has always been the policy intention that these dependent children should be eligible for grant of a Class 814 entry permit, and this was the position under the Migration (1989) Regulations.

However, by oversight this policy was not implemented in the Migration (1993) Regulations. The new paragraph (b) makes stylistic changes only. The operation of these amendments is made retrospective to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). Retrospective operation is entirely beneficial to the applicants concerned as they would otherwise be ineligible for grant of a Class 814 entry permit. No applicants are disadvantaged, and it is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 8.9 omits subclause 814.732(6) of the Migration (1993) Regulations and substitutes a new subclause 814.732(6). The effect of the new subclause is to make an additional provision that an applicant referred to in subclause 814.732(4) (that is, an applicant whose Australian citizen or permanent resident nominator has died) may be granted a Class 814 entry permit less than 2 years since the application was made. It has always been the intended policy that a Class 814 entry permit should be able to be granted to these applicants immediately, and this was the position under the Migration (1989) Regulations. By oversight, this policy was not implemented in the Migration (1993) Regulations. This amendment is therefore made to commence retrospectively to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). Retrospectivity is entirely beneficial to the applicants concerned and does not disadvantage any applicant. It is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 8.10 inserts a new paragraph 814.821(aa) in the Migration (1993) Regulations, to provide that there is no fee for an application taken to have been made under the new subclause 814.711(3) inserted in the Migration (1993) Regulations by these Regulations (see the notes on subregulation 8.7, above). The new paragraph 814.821(aa) is taken to have commenced retrospectively on 1 February 1993, in line with the commencement of the new subclause 814.711(3), Retrospective commencement of the new paragraph is entirely beneficial to the applicants concerned and is not prejudicial to any person. It is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Regulation 9 - Schedule 2, Chapter 2.1 (Temporary resident visas and entry permits)

Subregulation 9.1 corrects a typographical error in clause 418.336 of the Migration (1993) Regulations.

Subregulation 9.2 corrects a typographical error in the notes following each of clauses 410.711, 411.711, 412.711, 413.711, 414.711, 415.711, 416.711, 417.711, 418.711, 419.711, 420.711, 421.711, 422.711, 423.711, 424.711, 425.711, 426.711, 427.711, 428.711, 430.711, 432.711 and 442.711 of the Migration (1993) Regulations.

Regulation 10 - Schedule 2. Chapter 2.2 (Student visas and entry permits)

Part 560 - Class 560 (Student (Category A)) visa and entry permit

Subregulation 10.1 inserts a new paragraph 560.721(1)(ca) in the Migration (1993) Regulations. The purpose of the new paragraph (ca) is to enable a person who holds a Class 995 (diplomatic) visa as the spouse or dependent relative of a diplomatic or consular representative in Australia of another country to meet the requirements specified to be met at the time of application in respect of the grant of a Class 560 entry permit. This amendment corrects an oversight in the Migration (1993) Regulations. The policy intention has always been that these persons should be able to meet the requirements for grant of a Class 560 entry permit. As the effect of the amendment is to extend eligibility to applicants previously ineligible, it is entirely beneficial to the applicants concerned and it is not detrimental to any applicant. Operation of the amendment is made retrospective to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). In these circumstances, retrospectivity is in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 10.2 omits paragraph 560.721(3)(a) of the Migration (1993) Regulations and substitutes a new paragraph (a) which provides that the requirements of subclause 560.721(3) are met if the applicant became an illegal entrant upon the expiry of either a Group 2.1 (temporary resident) (other than Class 426 (domestic worker (diplomatic or consular)), a Group 2.2 (student), a Group 2.3 (visitor), a Group 2.4 (visitor (short stay)), or a Class 773 (border) entry permit. This amendment corrects the operation of paragraph 560.721(3)(a), as it was not intended that the provision should be restricted only to illegal entrants who previously held a Group 2.2 (student) entry permit. As the effect of the amendment is to extend eligibility to applicants previously ineligible, it is entirely beneficial to the applicants concerned and it is not detrimental to any applicant. Operation of the amendment is made retrospective to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). In these circumstances, retrospectivity is in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Part 561 - Class 561 (Student (Category B)) visa and entry permit

Subregulation 10.3 inserts a new paragraph 561.721(1)(ca) in the Migration (1993) Regulations. The purpose of the new paragraph (ca) is to enable a person who holds a Class 995 (diplomatic) visa as the spouse or dependent relative of a diplomatic or consular representative of a country other than Australia to meet the requirements

specified to be met at the time of application in respect of the grant of a Class 561 entry permit. This amendment corrects an oversight in the Migration (1993) Regulations. The policy intention has always been that these persons should be able to meet the requirements for grant of a Class 561 entry permit. As the effect of this amendment is to extend eligibility to applicants previously ineligible, it is entirely beneficial to the applicants concerned and it is not detrimental to any applicant. Operation of the amendment is made retrospective to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). In these circumstances, retrospectivity is in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 10.4 omits paragraph 561.721(3)(a) of the Migration (1993) Regulations and substitutes a new paragraph (a) which provides that the requirements of subclause 561.721(3) are met if the applicant became an illegal entrant upon the expiry of either a Group 2.1 (temporary resident) (other than Class 426 (domestic worker (diplomatic or consular)), a Group 2.2 (student), a Group 2.3 (visitor), a Group 2.4 (visitor (short stay)), or a Class 773 (border) entry permit. This amendment corrects the operation of paragraph 561.721(3)(a), as it was not intended that the provision should be restricted only to illegal entrants who previously held a Group 2.2 (student) entry permit. As the effect of this amendment is to extend eligibility to applicants previously ineligible, it is entirely beneficial to the applicants concerned and it is not detrimental to any applicant. Operation of the amendment is made retrospective to 1 February 1993 (the date of commencement of the Migration (1993) Regulations). In these circumstances, retrospectivity is in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 10.5 omits paragraph 561.822(b) of the Migration (1993) Regulations and substitutes a new paragraph 561.822(b). The new paragraph 561.822(b) provides that the fee in respect of an application made by any person who, at the time of application, was the holder of a Group 2.2 (student) entry permit is $50. The effect of this amendment is to remove an unintended provision that there was no fee where the application for a Class 561 entry permit was lodged not more than 6 months after lodgement of the application for the entry permit held at the time of application. This was a drafting error in the Migration (1993) Regulations.

Regulation 11 - Schedule 2. Chapter 2.3 (Visitor visas and entry permits

Part 680 - Class 680 (Tourist) visa and entry permit

Subregulation 11.1 omits subdivision 680.12 of the Migration (1993) Regulations and substitutes a new subdivision 680.12 to clarify the policy intent that Class 680 visas and entry permits are granted to authorise visits of limited duration to Australia where the applicant seeks to enter for a period of more than 3 months for the purposes of tourism; that is, the applicant must seek a period of stay in Australia which exceeds 3 months, although a lesser period may be granted at the discretion of the Minister.

Subregulations 11.2 and 11.3 amend clauses 680.521 and 680.522 of the Migration (1993) Regulations respectively by removing the requirement that Class 680 entry permits must be granted for a minimum of 3 months. While the applicant must seek a period of stay in Australia exceeding 3 months, a lesser period may be granted at the

discretion of the Minister. These amendments ensure that the intended policy is accurately implemented.

Subregulation 11.4 omits clause 680.733 of the Migration (1993) Regulations and substitutes a new clause 680.733. The new clause 680.733 omits the existing paragraphs (b) and (c). These criteria are in fact already required to be met under paragraph 680.731(b). The purpose of this amendment is to rationalise the provisions of clause 680.733, and no changes in policy are involved.

Subregulation 11.5 makes a minor technical correction to clause 680.737 of the Migration (1993) Regulations.

Part 682 - Class 682 (Business visitor) visa and entry permit

Subregulation 11.6 omits subdivision 682.12 of the Migration (1993) Regulations and substitutes a new subdivision 682.12 to clarify the policy intent that Class 682 visas and entry permits are granted to authorise visits of limited duration to Australia where the applicant seeks to enter for a period of more than 3 months for business purposes; that is, the applicant must seek a period of stay in Australia which exceeds 3 months, although a lesser period may be granted at the discretion of the Minister.

Subregulations 11.7 and 11.8 amend clauses 682.521 and 682.522 of the Migration (1993) Regulations respectively by removing the requirement that Class 682 entry permits must be granted for a minimum of 3 months. While the applicant must seek a period of stay in Australia exceeding 3 months, a lesser period may be granted at the discretion of the Minister. These amendments ensure that the intended policy is accurately implemented.

Subregulation 11.9 omits clause 682.733 of the Migration (1993) Regulations and substitutes a new clause 682.733. The new clause 682.733 omits the existing paragraphs (b) and (c). These criteria are in fact already required to be met under paragraph 682.731(b). The purpose of this amendment is to rationalise the provisions of clause 682.733, and no changes in policy are involved.

Subregulation 11.10 corrects an error in paragraph 682.734(b) of the Migration (1993) Regulations. The paragraph is intended to require the applicant to seek further stay in Australia to complete business negotiations or arrangements, rather than for the purposes of genuine tourism.

Part 683 - Class 683 (Close family visitor) visa and entry permit

Subregulation 11.11 omits subdivision 683.12 of the Migration (1993) Regulations and substitutes a new subdivision 683.12 to clarify the policy intent that Class 683 visas and entry permits are granted to authorise visits of limited duration to Australia where the applicant seeks to enter for a period of more than 3 months to visit certain Australian citizen or permanent resident relatives; that is, the applicant must seek a period of stay in Australia which exceeds 3 months, although a lesser period may be granted at the discretion of the Minister.

Subregulations 11.12 and 11.13 amend clauses 683.521 and 683.522 of the Migration (1993) Regulations respectively by removing the requirement that Class 683 entry permits must be granted for a minimum of 3 months. While the applicant must seek a period of stay in Australia exceeding 3 months, a lesser period may be granted at the discretion of the Minister. These amendments ensure that the intended policy is accurately implemented.

Subregulation 11.14 omits clauses 683.733 and 683.734 of the Migration (1993) Regulations and substitutes new clauses 683.733 and 683.734. The new clause 683.733 incorporates stylistic changes only. The new clause 683.734 has the effect of omitting the existing paragraph 683.734(b) as the requirement of that paragraph is not intended by policy to be met by applicants for a Class 683 entry permit.

Subregulation 11.15 makes a correction to clause 683.737 of the Migration (1993) Regulations.

Part 684 - Class 684 (Visitor (other)) visa and entry permit

Subregulation 11.16 omits subdivision 684.12 of the Migration (1993) Regulations and substitutes a new subdivision 684.12 to clarify the policy intent that Class 684 visas and entry permits are granted to authorise visits of limited duration to Australia where the applicant seeks to enter for a period of more than 3 months and is unable to qualify for other Group 2.3 visas and entry permits; that is, the applicant must apply for a period of stay in Australia which exceeds 3 months, although a lesser period may be granted at the discretion of the Minister.

Subregulation 11.17 makes an amendment to subclause 684.321(1) of the Migration (1993) Regulations which is consequential upon the omission of subclause 684.321(6) (subregulation 11.19 of these regulations refers).

Subregulation 11.18 omits paragraph 684.321(3)(b) of the Migration (1993) Regulations and substitutes a new paragraph 684.321(3)(b) which omits the requirement that, in order to satisfy the criteria for the grant of a Class 684 visa, the applicant, being the parent or legal guardian of an overseas student referred to in paragraph 684.321(3)(a), must be seeking to travel to Australia to visit that student at a time when neither the other parent nor (if a different person) the spouse of the applicant is in Australia. That is, following the amendment made by this subregulation, a Class 684 visa may be granted even though the child's other parent or the spouse of the applicant (if a different person) will be in Australia at the same time as the applicant.

Subregulation 11.19 omits subclause 684.321(6) of the Migration (1993) Regulations. The policy intention is that applicants satisfying this specific provision (ie, further stay is necessary in connection with legal proceedings) are no longer to be able to meet a criterion for the grant of a Class 684 visa, but are to be considered as seeking to enter Australia for business purposes and hence meeting a criterion for the grant of a Class 682 (business visitor) visa or a Class 672 (business visitor (short stay)) visa.

Subregulations 11.20 and 11.21 amend clauses 684.521 and 684.522 of the Migration (1993) Regulations respectively by removing the requirement that Class 684 entry

permits must be granted for a minimum of 3 months. While the applicant must seek a period of stay in Australia exceeding 3 months, a lesser period may be granted at the discretion of the Minister. These amendments ensure that the intended policy is accurately implemented.

Subregulation 11.22 omits paragraph 684.731(2)(b) of the Migration (1993) Regulations. This specific provision (ie, for a further period of stay in connection with legal proceedings) is no longer relevant to the grant of a Class 684 entry permit after entry, following the omission of subclause 684.321(6) by subregulation 11.19 of these Regulations. (See the notes on subregulation 11.19 of these Regulations, above.)

Subregulation 11.23 omits subclause 684.731(4) of the Migration (1993) Regulations and substitutes a new subclause 684.731(4), which has the effect of omitting the existing paragraph 684.731(4)(b). That paragraph is omitted as the specific criterion which is required to be met (ie, that a further period of stay is necessary in connection with legal proceedings) is no longer relevant to the grant of a Class 684 entry permit after entry. (See also the notes on subregulations 11.19 and 11. 22 of these Regulations, above.)

Subregulation 11.24 makes a correction to clause 684.735 of the Migration (1993) Regulations.

Part 685 - Class 685 (Medical treatment) visa and entry permit

Subregulation 11.25 omits subdivision 685.12 of the Migration (1993) Regulations and substitutes a new subdivision 685.12 to clarify the policy intent that Class 685 visas and entry permits are granted to authorise visits of limited duration to Australia where the applicant seeks to enter for a period of more than 3 months for medical treatment or for related purposes; that is, the applicant must apply for a period of stay in Australia which exceeds 3 months, although a lesser period may be granted at the discretion of the Minister.

Subregulations 11.26 and 11.27 amend clauses 685.521 and 685.522 of the Migration (1993) Regulations respectively by removing the requirement that Class 685 entry permits must be granted for a minimum of 3 months. While the applicant must seek a period of stay in Australia exceeding 3 months, a lesser period may be granted at the discretion of the Minister. These amendments ensure that the intended policy is accurately implemented.

Regulation 12 - Schedule 2, Chapter 2.4 (Visitor (short stay) visas and entry permits)

Part 670 - Class 670 (Tourist (short stay)) visa and entry permit

Subregulation 12.1 omits clause 670.721 of the Migration (1993) Regulations and substitutes a new clause 670.721. The effect of the new clause is to provide that a wider range of applicants is able to meet the criterion prescribed by the clause. In addition to holders of a Group 2.4 (visitor (short stay)) entry permit, holders of Group 2.1 (temporary resident) **(other** than Class 426 (domestic worker (diplomatic or consular)), Group 2.2 (student), Group 2.3 (visitor) and Class 773 (border) entry permits (and illegal entrants who held one of those entry permits immediately before

becoming illegal, and are able to meet certain other criteria) are able to meet the new provision. This reflects the policy intention that eligibility for grant of a Class 670 entry permit after entry is not restricted to applicants holding a Group 2.4 (visitor (short stay)) entry permit.

Subregulation 12.2 amends clause 670.735 of the Migration (1993) Regulations to ensure that it applies to holders of Group 2.3 (visitor) entry permits, as well as holders of Group 2.4 (visitor (short stay)) entry permits.

Subregulation 12.3 makes a correction to clause 670.736 of the Migration (1993) Regulations by deleting "visa" and substituting "entry permit". The clause refers to a criterion for the grant of a Class 670 (tourist (short stay)) entry permit (after entry) and not for a Class 670 (tourist (short stay)) visa.

Subregulation 12.4 inserts two new clauses 670.737 and 670.738 into the Migration (1993) Regulations. The purpose of these new clauses is to prescribe criteria which are to be met by applicants for a Class 670 entry permit who are holders of Group 2.2 (student) and Class 417 (working holiday) entry permits, respectively. This amendment is consequential upon the amendment made to clause 670.721 by subregulation 12.1 of these Regulations, which has the effect of extending eligibility for the grant of a Class 670 entry permit to the applicants concerned.

Part 672 - Class 672 (Business visitor (short stay)) visa and entry permit

Subregulation 12.5 omits clause 672.721 of the Migration (1993) Regulations and substitutes a new clause 672.721, The effect of the new clause is to provide that a wider range of applicants is able to meet the criterion prescribed by the clause. In addition to holders of a Group 2.4 (visitor (short stay)) entry permit, holders of Group 2.1 (temporary resident) (other than Class 426 (domestic worker (diplomatic or consular)), Group 2.2 (student), Group 2.3 (visitor) and Class 773 (border) entry permits (and illegal entrants who held one of those entry permits immediately before becoming illegal, and are able to meet certain other criteria) are able to meet the new provision. This reflects the policy intention that eligibility for grant of a Class 672 entry permit after entry is not restricted to applicants holding a Group 2.4 (visitor (short stay)) entry permit.

Subregulation 12.6 corrects the numbering of clause 672.724 of the Migration (1993) Regulations.

Subregulation 12.7 omits clause 672.735 of the Migration (1993) Regulations and substitutes a new clause 672.735. The effect of the new clause 672.735 is to remove the existing subparagraphs 672.735(b)(ii) and (iii). These subparagraphs are not required as specific provisions as paragraph 672.73 1 (b) has the effect that all applicants must satisfy the criteria concerned.

Subregulation 12.7 also inserts two new clauses 672.736 and 672.737 in the Migration (1993) Regulations. The purpose of these new clauses is to prescribe criteria which are to be met by applicants for a Class 672 entry permit who are holders of Group 2.2 (student) and Class 417 (working holiday) entry permits, respectively. This amendment is consequential upon the amendment made to clause 672.721 by

subregulation 12.5 of these Regulations, which has the effect of extending eligibility for the grant of a Class 672 entry permit to the applicants concerned.

Part 673 - Class 673 (Close family visitor (short stay)) visa and entry permit

Subregulation 12.8 omits clause 673.721 of the Migration (1993) Regulations and substitutes a new clause 673.721. The effect of the new clause is to provide that a wider range of applicants is able to meet the criterion prescribed by the clause. In addition to holders of a Group 2.4 (visitor (short stay)) entry permit, holders of Group 2.1 (temporary resident) (other than Class 426 (domestic worker (diplomatic or consular)), Group 2.2 (student), Group 2.3 (visitor) and Class 773 (border) entry permits (and illegal entrants who held one of those entry permits immediately before becoming illegal, and are able to meet certain other criteria) are able to meet the new provision. This reflects the policy intention that eligibility for grant of a Class 673 entry permit after entry is not restricted to applicants holding a Group 2.4 (visitor (short stay)) entry permit.

Subregulation 12.9 makes a correction to clause 673.735 of the Migration (1993) Regulations by deleting "visa" and substituting "entry permit". The clause refers to a criterion for the grant of a Class 673 (close family visitor (short stay)) entry permit (after entry) and not for a Class 673 (close family visitor (short stay)) visa.

Subregulation 12.10 omits clause 673.736 of the Migration (1993) Regulations and inserts three new clauses, 673.736, 673.737 and 673.738. The purposes of these new clauses are:

new clause 673.736 has the effect of removing existing paragraph 673.736(b), which is not intended by policy to be a criterion for grant of a Class 673 entry permit after entry. The new clause also includes holders of Group 2.3 (visitor) entry permits in its provisions, consequential upon the amendments made by subregulation 12.8 of these Regulations (see notes above), which extend eligibility for grant of a Class 673 entry permit to holders of a Group 2.3 (visitor) entry permit; and

new clauses 673.737 and 673.738 prescribe criteria which are to be met by applicants for a Class 673 entry permit who are holders of Group 2.2 (student) and Class 417 (working holiday) entry permits, respectively. These amendments are consequential upon the amendment made to clause 673.721 by subregulation 12.8 of these Regulations, which has the effect of extending eligibility for the grant of a Class 673 entry permit to the applicants concerned (see also notes on subregulation 12.8, above).

Part 674 - Class 674 (Visitor (other) (short stay)) visa and entry permit

Subregulation 12.11 makes an amendment to subclause 674.32 1 (1) of the Migration (1993) Regulations which is consequential upon the omission of subclause 674.321(5) by subregulation 12.13 of these Regulations (see notes on subregulation 12.13, below).

Subregulation 12.12 omits paragraph 674.321(3)(b) of the Migration (1993) Regulations and substitutes a new paragraph 674.321(3)(b) which omits the

requirement that, in order to satisfy the criteria for the grant of a Class 674 visa, the applicant, being the parent or legal guardian of an overseas student referred to in paragraph 674.321(3)(a), must be seeking to travel to Australia to visit that student at a time when neither the other parent nor (if a different person) the spouse of the applicant is in Australia. That is, following the amendment made by this subregulation, a Class 674 visa may be granted even though the child's other parent or the spouse of the applicant (if a different person) will be in Australia at the same time as the applicant.

Subregulation 12.13 omits subclause 674.321(5) of the Migration (1993) Regulations. The policy intention is that applicants satisfying this specific provision (ie, further stay necessary in connection with legal proceedings) are no longer eligible to meet a criterion for the grant of a Class 674 visa, but are to be considered as seeking to enter Australia for business purposes and hence meeting a criterion for the grant of a Class 682 (business visitor) visa or a Class 672 (business visitor (short stay)) visa.

Subregulation 12.14 omits clause 674.721 of the Migration (1993) Regulations and substitutes a new clause 674.721. The effect of the new clause is to provide that a wider range of applicants is able to meet the criterion prescribed by the clause. In addition to holders of a Group 2.4 (visitor (short stay)) entry permit, holders of Group 2.1 (temporary resident) (other than Class 426 (domestic worker (diplomatic or consular)), Group 2.2 (student), Group 2.3 (visitor) and Class 773 (border) entry permits (and illegal entrants who held one of those entry permits immediately before becoming illegal, and are able to meet certain other criteria) are able to meet the new provision. This reflects the policy intention that eligibility for grant of a Class 674 entry permit after entry is not restricted to applicants holding a Group 2.4 (visitor (short stay)) entry permit.

Subregulation 12.15 omits clause 674.735 of the Migration (1993) Regulations and substitutes a new clause 674.735. The effect of the new clause is to remove the existing paragraph 674.735(b). The specific provision of that paragraph (ie, for a further period of stay in connection with legal proceedings) is no longer relevant to the grant of a Class 674 entry permit after entry, following the omission of subclause 674.321(5) by subregulation 12.13 of these Regulations. (See the notes on subregulation 12.13 of these Regulations, above.) The new clause 674.735 also includes holders of Group 2.3 (visitor) entry permits in its provisions, consequential upon the amendments made by subregulation 12.14 of these Regulations (see notes above), which extend eligibility for grant of a Class 674 entry permit to holders of a Group 2.3 (visitor) entry permit.

Subregulation 12.16 makes a correction to clause 674.736 of the Migration (1993) Regulations by deleting "visa" and substituting "entry permit". The clause refers to a criterion for the grant of a Class 674 (visitor (other) (short stay)) entry permit (after entry) and not for a Class 674 (visitor (other) (short stay)) visa.

Subregulation 12.17 inserts two new clauses 674.737 and 674.738 in the Migration (1993) Regulations. The purpose of these new clauses is to prescribe criteria which are to be met by applicants for a Class 674 entry permit who are holders of Group 2.2 (student) and Class 417 (working holiday) entry permits, respectively. This amendment is consequential upon the amendment made to clause 674.721 by

subregulation 12.14. of these Regulations, which has the effect of extending eligibility for the grant of a Class 674 entry permit to the applicants concerned.

Pan 675 - Class 675 (Medical treatment (short stay)) visa and entry permit

Subregulation 12.18 omits clause 675.721 of the Migration (1993) Regulations and substitutes a new clause 675.721. The effect of the new clause is to provide that a wider range of applicants is able to meet the criterion prescribed by the clause. In addition to holders of a Group 2.4 (visitor (short stay)) entry permit, holders of Group 2.1 (temporary resident) (other than Class 426 (domestic worker (diplomatic or consular)), Group 2.2 (student), Group 2.3 (visitor) and Class 773 (border) entry permits (and illegal entrants who held one of those entry permits immediately before becoming illegal, and are able to meet certain other criteria) are able to meet the new provision. This reflects the policy intention that eligibility for grant of a Class 675 entry permit after entry is not restricted to applicants holding a Group 2.4 (visitor (short stay)) entry permit.

Subregulation 12.19 inserts new clauses 675.734 and 675.735 in the Migration (1993) Regulations. The purpose of these new clauses is to prescribe criteria which are to be met by applicants for a Class 675 entry permit who are holders of Group 2.2 (student) and Class 417 (working holiday) entry permits, respectively. This amendment is consequential upon the amendment made to clause 675.721 by subregulation 12.18 of these Regulations, which has the effect of extending eligibility for the grant of a Class 675 entry permit to the applicants concerned.

Regulation 13 - Schedule 2. Chapter 2.5 (Extended eligibility visas and entry permits)

Part 820 - Class 820 (Extended eligibility (spouse)) visa and entry permit

Subregulations 13.1, 13.2 and 13.3 make minor stylistic amendments to subclauses 820.321(1), (2) and (3), paragraph 820.721(1)(b) and subclause 820.721(2) of the Migration (1993) Regulations, respectively.

Subregulation 13.4 corrects an error in subclause 820.731(1) of the Migration (1993) Regulations by omitting a reference to clause 821.721 and substituting the intended reference to clause 820.721.

Part 826 - Class 826 (Extended eligibility (interdependency)) visa and entry permit

Subregulation 13.5 makes minor stylistic amendments to subclauses 826.321(1), (2) and (3) of the Migration (1993) Regulations.

Regulation 14 - Schedule 2, Chapter 2.6 (Refugee and humanitarian (temporary entry) visa and entry permits)

Part 435 - Class 435 (Sri Lankan (temporary)) entry permit

Subregulation 14.1 amends clause 435.521 of the Migration (1993) Regulations to provide that a Class 435 entry permit may be granted for a period ending not later than 31 January 1994.

Subregulation 14.2 amends clause 435.723 of the Migration (1993) Regulations to provide that the applicant for a Class 435 entry permit must not be the holder of an entry permit, other than a Class 435 entry permit, having effect on or after 31 January 1994.

Part 443 - Class 443 (Citizens of the former Socialist Federal Republic of Yugoslavia (temporary)) entry permit

Subregulation 14.3 amends clause 443.521 of the Migration (1993) Regulations to provide that a Class 443 entry permit may be granted for a period ending not later than 31 January 1994.

Subregulation 14.4 amends clause 443.723 of the Migration (1993) Regulations to provide that the applicant for a Class 443 entry permit must not be the holder of an entry permit, other than a Class 443 entry permit, having effect on or after 31 January 1994.

Subregulations 14.1 to 14.4 (inclusive) are made to commence retrospectively on 15 June 1993, the date of the policy decision to extend the period of validity of Class 435 and Class 443 entry permits. Retrospectivity is beneficial to applicants who applied on or after 15 June 1993 as it enables them to be granted a Class 435 or Class 443 entry permit of longer validity. Retrospective commencement does not disadvantage any person, and it is therefore in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.

Part 784 - Class 784 (Domestic protection (temporary)) visa and entry permit

Subregulation 14.5 corrects a typographical error in paragraph 784.311(2)(c) of the Migration (1993) Regulations.

Regulation 15 - Schedule 2. Chapter 2.7 (Provisional visas and entry permits)

Subregulations 15.1 and 15.2 omit notes relating to lodgement of applications and payment of fee after clauses 301.311 and 302.3 11, respectively, of the Migration (1993) Regulations. Class 301 (Australian requirement) visas and Class 302 (Emergency (permanent entry)) visas are not applied for directly but are deemed to have been applied for when applications are made for certain other visas. Notes similar to those omitted are included in the application provisions relating to those other classes of visas, and the notes are therefore unnecessary in relation to Class 301 and Class 302 visas.

Regulation 16 - Schedule 2. Chapter 2.8 (Miscellaneous visas and entry permits)

Part 771 - Class 771 (Transit) visa and entry permit

Subregulations 16.1 and 16.2 amend clause 771.221 and paragraph 771.222(a) of the Migration (1993) Regulations, respectively, by deleting the existing "single entry" validity restriction. Class 771 visas are, as a matter of policy, not intended to be subject to such a restriction and this amendment implements the policy intention by enabling grant of the visa to permit multiple entries.

Part 773 - Class 773 (Border) visa and entry permit

Subregulation 16.3 amends subparagraph 773.323(j)(iii) of the Migration (1993) Regulations so that it allows the grant of a Class 773 visa to an applicant who has arrived in Australia without a valid visa, who seeks temporary entry to Australia, and who is apparently eligible for a Group 2.4 (visitor (short stay)) visa. This is in addition to the other groups of eligible applicants to which the subparagraph currently refers.

Part 829 - Class 829 (Processing (residence)) visa and entry permit

Subregulation 16.4 makes minor stylistic amendments and corrections to the first note following subdivision 829.71 of the Migration (1993) Regulations. Subregulation 16.4 also omits the second note following subdivision 829.71. An application for a Class 829 entry permit is not made directly but is deemed to be made on application for an entry permit of certain other classes. Notes similar to that omitted are included in the application provisions relating to those other classes of visas, and the note is therefore unnecessary in relation to Class 829.

Subregulation 16.5 amends subclause 829.731(1) of the Migration (1993) Regulations by omitting a reference to subclause 829.731(5) as a consequence of the omission of that subclause by subregulation 16.6 of these Regulations (see notes on subregulation 16.6, below).

Subregulation 16.6 omits subclause 829.731(5) from the Migration (1993) Regulations. The provision of that subclause is not required as clause 829.712 to which it refers was omitted from the Migration (1993) Regulations by Statutory Rules 1993 No. 19. By oversight, subclause 829.731(5) was not omitted at the same time.

Regulation 17 - Schedule 3 (Provisions with respect to the grant of visas and entry permits included in certain groups to secondary persons)

Subregulation 17.1 omits paragraph 013.333(b) of the Migration (1993) Regulations and substitutes a new paragraph 013.333(b) which omits the existing subparagraph 013.333(b)(ii). Following the amendment to subparagraph 013.333(b)(i) made by Statutory Rules 1993 No. 169, the provision at subparagraph 013.333(b)(ii) is no longer required as the effect of that amendment was to make subparagraph 013.333(b)(i) apply to all applicants for Group 1.3 (permanent resident (refugee and humanitarian)) visas (the only group of applicants eligible under Part 013). There are no other cases to which the provision at subparagraph 013.333(b)(ii) could apply.

Regulation 18 - Schedule 11 (Prescribed forms)

Subregulations 18.1 and 18.2 amend Form 2, and subregulations 18.3 and 18.4 amend Form 3, as prescribed in Schedule 11 of the Migration (1993) Regulations. The purpose of these amendments is to make it clear that the authorisation evidenced by the relevant form can be given by the Secretary acting personally, or by a person to whom the Secretary has delegated his or her powers under regulation 1.15 of the Migration (1993) Regulations.

Regulation 19 - Amendment of Statutory Rules 1993 No. 29

This regulation amends Statutory Rules 1993 No. 29 (SR 29) by inserting retrospectively a subregulation 1.2 which provides that regulation 3 of SR 29 commenced on 1 March 1993.

Regulation 3 of SR 29 (which was notified in the *Gazette* on 12 February 1993) inserted a new regulation in the Migration (1993) Regulations - regulation 7.8AA (Prescribed evidence paragraph 4(1A)(b) of the Act). Section 9 of the Migration Laws Amendment Act (No. 2) 1992 (the Amendment Act) inserted subsection 4(1A) into the Act, which commenced on 1 March 1993.

Subsection 4(1) of the Acts Interpretation Act 1901 provides that where a principal Act is amended in such a way that a power will be conferred to make regulations, then the power may be exercised before the amendments come into operation as if they had come into operation. Subsection 4(2A) of the Acts Interpretation Act 1901 requires that a regulation must have a date of commencement "as declared in the instrument" which is consistent with the enacting provision (in this case, paragraph 4(1A)(b) of the Act).

The effect of these provisions is that as SR 29 did not provide for a date of commencement of regulation 3, regulation 7.8AA of the Migration (1993) Regulations has not commenced (although it is a valid regulation). This oversight was brought to notice by the Senate Standing Committee on Regulations and Ordinances.

The purpose of regulation 19 of these Regulations is to rectify this inadvertent omission by inserting retrospectively subregulation 1.2 in SR 29. Insertion of subregulation 1.2 in SR 29 is made retrospective to 12 February 1993, which was the date of notification of the Statutory Rule. The effect of inserting subregulation 1.2 in SR 29 from 12 February 1993 will be to enable regulation 3 (and hence regulation 7.8AA of the Migration (1993) Regulations) to be taken to have commenced on 1 March 1993. This was the intended date of its commencement, and it is also the date of commencement of the enabling provision.

Commencement of regulation 7.8AA of the Migration (1993) Regulations on 1 March 1993 is entirely beneficial to certain applicants as the effect of the regulation is to enable them to provide prescribed evidence to the Minister that they have functional English, and thus avoid incurring liability for payment of the English Education Charge under the Immigration (Education) Charge Act 1992. The commencement of regulation 7.8AA on 1 March 1993 is not prejudicial to any person. In these circumstances, retrospective operation of the regulation is in accordance with the requirements of subsection 48(2) of the Acts Interpretation Act 1901.