



Statutory Rules 1993 No. 283¹

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 28 October 1993.

BILL HAYDEN
Governor-General

By His Excellency's Command,

NICK BOLKUS
Minister for Immigration and Ethnic Affairs

1. Commencement

1.1 Subregulation 11.1 is taken to have commenced on 1 February 1993.

1.2 Regulation 3 and subregulations 11.4, 11.5, 11.6, 11.7 and 11.8 are taken to have commenced on 3 June 1993.

1.3 Regulation 12 is taken to have commenced on 1 October 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 2.10 (Prescribed change in circumstances (paragraphs 36 (1) (a) and 37 (2) (a) of Act)

3.1 Add, after paragraph 2.10 (m):

“; (ma) the person is a person to whom clause 829.712 in Chapter 2.8 of Schedule 2 applies.”.

4. Regulation 2.16 (Application for certain classes of visas to have effect as application for visas of certain other classes)

4.1 Subregulations 2.16 (4A) and (4B):

Omit the subregulations.

5. Regulation 2.21 (Recording and evidencing of visas)

5.1 Subparagraph 2.21 (1) (a) (ii):

After “fixing”, insert “a stamp or label evidencing”.

5.2 Subparagraph 2.21 (1) (b) (ii):

After “fixing”, insert “a stamp or label evidencing”.

6. New regulation 2.21A

6.1 After regulation 2.21, insert:

Re-evidencing of certain visas

“2.21A. (1) If:

- (a) a relevant visa that is in force has been recorded in a passport or other travel document in the manner set out in subparagraph 2.21 (1) (a) (ii) or (b) (ii); and
- (b) either:
 - (i) the visa as recorded, or the passport or other travel document, has been damaged, defaced, lost, stolen or destroyed, or otherwise cannot, for good reason, be presented for travel purposes; or
 - (ii) the passport or other travel document has expired, or has been cancelled, or is no longer applicable to that person;

the person to whom the visa was granted may apply to an authorised officer for the visa to be recorded again in the manner set out in subparagraph 2.21 (1) (a) (ii) or (b) (ii) in a passport or other travel document of that person.

“(2) An application must be in accordance with approved form 786.

“(3) The fee payable on an application is:

- (a) if the application is made in Australia—\$50; or
- (b) if the application is made outside Australia—\$60.

“(4) In this regulation “**relevant visa**” means:

- (a) a Group 1.4 (resident return (permanent entry)) visa; or
- (b) a Class 159 (resident return (F)) visa.”.

7. Regulation 2.29 (Application for certain classes of entry permits to have effect as an application for entry permits or visas of certain other classes)

7.1 Subregulation 2.29 (1A):

Omit the subregulation, substitute:

“(1A) An application after entry for a permanent entry permit (other than an application for a Class 808 (confirmatory) entry permit on the grounds that the applicant is the holder of a Class 159 (resident return (F)) entry permit or a Class 773 (border) entry permit) also has effect, subject to the payment of the difference (if any) in the applicable fees, as an application for a Class 154 (resident return (A)) visa.”.

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

8.1 Paragraphs 155.221 (a) and (b):

Omit the paragraphs, substitute:

“(a) except as provided in paragraph (b):

(i) the period of 5 years after the grant of the visa; or

(ii) such shorter period as is specified in the visa; or

(b) in the case of a visa granted to an applicant who meets the requirements of subclause 155.321 (5) or 155.421 (5)—the period beginning on the date of grant of the visa and ending on the date on which the return visa, Class B referred to in paragraph 155.321 (5) (a) or 155.421 (5) (a), as the case requires, would have expired apart from the operation of paragraph 16 (4) (b) of the Migration (1989) Regulations.”.

8.2 Subparagraphs 155.222 (a) (i) and (ii):

Omit the subparagraphs, substitute:

“(i) except as provided in subparagraph (ii):

(A) the period of 5 years after the grant of the visa; or

(B) such shorter period as is specified in the visa; or

- (ii) in the case of a visa granted to an applicant who meets the requirements of subclause 155.321 (5)—the period beginning on the date of grant of the visa and ending on the date on which the return visa, Class B referred to in paragraph 155.321 (5) (a) would have expired apart from the operation of paragraph 16 (4) (b) of the Migration (1989) Regulations.”.

8.3 Subclause 155.321 (1):

Omit “or (3)”, substitute “, (3) or (5)”.

8.4 Paragraph 155.321 (3) (d):

Omit the paragraph, substitute:

“(d) a person who:

- (i) is within the same family unit (within the meaning of subclause (4)) as an Australian citizen; and
- (ii) has accompanied, or is to accompany, the citizen overseas.”.

8.5 Paragraph 155.321 (3) (e):

Omit “the United Nations”, substitute “an international organization to which the *International Organizations (Privileges and Immunities) Act 1963* applies, within the meaning of subsection 3 (1) of that Act”.

8.6 Clause 155.321:

Add at the end:

“(4) For the purposes of paragraph (3) (d), a person is within the same family unit as an Australian citizen if:

- (a) that person is a member of the Australian citizen’s family unit; or
- (b) the Australian citizen is a member of that person’s family unit; or

- (c) that person and the Australian citizen are members of the family unit of a third person.

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

- (a) the applicant is, or was, the holder of a return visa, Class B granted under regulation 95 of the Migration (1989) Regulations as in force from 19 December 1989 to 16 September 1991 (inclusive); and
- (b) by reason of the operation of paragraph 16 (4) (b) of the Migration (1989) Regulations, that visa expires, or expired, before the date on which it would have expired, apart from that paragraph.

[NOTE: Paragraph 16 (4) (b) of the Migration (1989) Regulations, as in force on 19 December 1989, provided that a return visa, Class B ceased to be valid on the day on which the passport to which it related expired, even if that day occurred before the end of the period for which the visa would otherwise have been valid. This limitation was removed on 17 September 1991.]”.

8.7 Subclause 155.421 (1):

Omit “or (3)”, substitute “, (3) or (5)”.

8.8 Paragraph 155.421 (3) (e):

Omit the paragraph, substitute:

“(e) a person who:

- (i) is within the same family unit (within the meaning of subclause (4)) as an Australian citizen; and
- (ii) has accompanied, or is to accompany, the citizen overseas.”.

8.9 Paragraph 155.421 (3) (f):

Omit “the United Nations”, substitute “an international organization to which the *International Organizations (Privileges and Immunities) Act 1963* applies, within the meaning of subsection 3 (1) of that Act”.

8.10 Clause 155.421:

Add at the end:

“(4) For the purposes of paragraph (3) (e), a person is within the same family unit as an Australian citizen if:

- (a) that person is a member of the Australian citizen’s family unit; or
- (b) the Australian citizen is a member of that person’s family unit; or
- (c) that person and the Australian citizen are members of the family unit of a third person.

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

- (a) the applicant is, or was, the holder of a return visa, Class B granted under regulation 95 of the Migration (1989) Regulations as in force from 19 December 1989 to 16 September 1991 (inclusive); and
- (b) by reason of the operation of paragraph 16 (4) (b) of the Migration (1989) Regulations, that visa expires, or expired, before the date on which it would have expired, apart from that paragraph.

[NOTE: Paragraph 16 (4) (b) of the Migration (1989) Regulations, as in force on 19 December 1989, provided that a return visa, Class B ceased to be valid on the day on which the passport to which it related expired, even if that day occurred before the end of the period for which the visa would otherwise have been valid. This limitation was removed on 17 September 1991.]”.

8.11 Paragraph 156.421 (b):

After “Australian”, insert “permanent”.

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

9.1 Clauses 680.711, 682.711, 683.711, 684.711 and 685.711:

Omit “form 2”, substitute “form 601”.

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

10.1 Clauses 670.711, 672.711, 673.711, 674.711 and 675.711:
Omit “form 2”, substitute “form 601”.

11. Schedule 2, Chapter 2.8 (Miscellaneous visas and entry permits)

11.1 Clause 829.411:
Delete the clause, substitute:

“829.411 (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 829 visa may be combined with, and lodged at the same time as, the application by that other applicant.”.

11.2 Subdivision 829.41 note:

Omit “clause 829.81”, substitute “clause 829.811”.

11.3 Clause 829.442:

Omit the clause, substitute:

“829.442 Discretionary conditions: Nil.”.

11.4 Subdivision 829.52:

Omit the subdivision, substitute:

“829.52 Period of validity (entry permit)

“829.521 Until:

- (a) in the case of an applicant other than an applicant to whom clause 829.712 applies:
 - (i) if a decision is made not to grant the entry permit to which the principal application relates—the applicant is notified of the decision; or
 - (ii) the entry permit to which the principal application relates is granted; or
 - (iii) the application is withdrawn;whichever is the soonest; or
- (b) in the case of an applicant to whom clause 829.712 applies:
 - (i) the entry permit to which the principal application relates is granted; or
 - (ii) the application is withdrawn;whichever is the sooner.”.

11.5 Subdivision 829.71:

Omit the subdivision, substitute:

“829.71 Application (entry permit (after entry))

“829.711 A person is taken to have applied for a Class 829 entry permit in the circumstances set out in subregulation 2.29 (1B).

“[NOTE: An application for an entry permit of any of the following classes is taken, under subregulation 2.29 (1B), to be an application for a Class 829 entry permit:

Class 801 (spouse (after entry));

Class 802 (child (after entry));

Class 804 (aged parent (after entry));

Class 805 (skilled occupation);

Class 806 (family and other close ties (after entry));

Class 808 (confirmatory);

Class 812 (December 1989 (permanent));

Class 820 (extended eligibility (spouse));

Class 826 (extended eligibility (interdependency)).]

“829.712 A person is taken to have applied for a Class 829 entry permit if:

- (a) the person is an applicant for a Group 1.2 (permanent resident (after entry)) entry permit; and
- (b) a decision is made not to grant that Group 1.2 entry permit; and
- (c) on review:
 - (i) a review authority:
 - (A) determines in writing that the Group 1.2 entry permit would be granted except that the applicant does not hold a section 47 temporary entry permit; and
 - (B) remits the application for reconsideration under paragraph 118 (4) (ba) of the Act; or
 - (ii) a review authority remits the application for the Group 1.2 entry permit for reconsideration under paragraph 118 (4) (ba) of the Act and the Minister

determines that the entry permit would be granted except that the applicant does not hold a section 47 temporary entry permit.”.

11.6 Clause 829.723:

After “applicant” (first occurring), insert “(not being an applicant to whom clause 829.712 applies)”.

11.7 Subclause 829.731 (1):

Omit “or (4)”, substitute “, (4) or (5)”.

11.8 Clause 829.731:

Add at the end:

“(5) An applicant meets the requirements of this subclause if the applicant is an applicant to whom clause 829.712 applies.”.

11.9 Clause 829.742:

Omit the clause, substitute:

“829.742 Discretionary conditions: Nil.”.

11.10 Subdivision 829.81:

Omit the subdivision, substitute:

“829.81 Visa applications

“829.811 After entry (only):

- (a) separate application: \$50;
- (b) application made on or after 1 February 1993 and combined with another application on which the fee payable is paid: Nil.”.

12. Schedule 10 (Amounts of fees in certain currencies)

12.1 Part 1:

Omit the Column relating to Hong Kong, substitute:

Hong Kong

Dollar

10,000

9,210

8,420

7,630

6,840

5,260

4,100

2,050

2,030

1,950

1,890

1,580

1,260

1,210

1,050

1,000

920

820

760

680

550

530

320

260

160

110

50

30

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 5 November 1993.
2. Statutory Rules 1992 No. 367 as amended by 1993 Nos. 19, 29, 88, 169, 175, 218, 235 and 267.