

Migration (1993) Regulations (Amendment) 1994 No. 38

EXPLANATORY STATEMENT

STATUTORY RULES 1994 No. 38

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

Subject - Migration Act 1958

Migration (1993) Regulations (Amendment)

Section 181 of the Migration Act 1958 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, to prescribe all matters which are 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. Without limiting the generality of section 181, section 23 of the Act enables regulations to be made providing for different classes of visas and section 33 of the Act enables regulations to be made providing for different classes of entry permits.

In addition, particular provision is made for the making of regulations in relation to the following matters:

- subsection 23(1) of the Act provides that, without limiting the generality of section 181, the regulations may provide for the granting or refusal of visas with respect to travel to Australia, including the granting of visas subject to conditions or to a limitation as to time. There is also provision for the regulations to provide for the recording and evidencing of visas, the effect and operation of visas, and the cancellation of visas;
- subsection 23(2) of the Act provides that, the regulations may provide for different classes of visas. The regulations may also provide that a person is entitled to be granted a visa of a particular class if the person satisfies all the criteria prescribed in relation to that class;
- subsection 33(1) of the Act provides that, without limiting the generality of section 181, the regulations may provide for the granting and refusal of entry permits, including the granting of entry permits subject to conditions or to a limitation as to time. There is also provision for the regulations to provide for the recording and evidencing of entry permits, the effect and operation of entry permits, and the cancellation of entry permits,
- subsection 33(2) of the Act provides that the regulations may provide for different classes of entry permits. The regulations may also provide that, subject to sections 40 and 45, a person is entitled to be granted an entry permit of a particular class if the person satisfies all the criteria prescribed in relation to that class; and

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

The purpose of the Regulations is:

- to amend regulation 2.38 to put beyond doubt that an entry permit may be cancelled for breach of a condition in three situations, ie, where there is a refusal by the holder to comply with a condition, where there is a failure by the holder to comply with a condition and where the holder has failed to meet a condition.
- to amend Class 105 (Concessional family) visa and entry permit to require that the applicant's spouse must be of working age at the time of application if, at time of decision, the applicant's score is assessed by taking into account the score the applicant's spouse would receive under Parts 1 and 2 of Schedule 7 pursuant to the operation of regulation 2.5 of the Migration (1993) Regulations;
- to amend prescribed criteria for the grant of visas and entry permits to certain classes of Group 2.3 (Visitor) visas and entry permits and to certain classes of Group 2.4 (Visitor (short stay)) visas and entry permits;
- to amend Schedule 4 to ensure that an applicant from whom a Commonwealth medical officer has requested a health undertaking provides such an undertaking and that the sponsor of a minor applicant is of good character;
- to amend Schedule 5, to make a minor amendment to clause 5005(a).
- to create a new condition in Schedule 9 (Visa and Entry Permit Conditions) to apply to certain holders of Group 2.3 (Visitor) visas and entry permits and Group 2.4 (Visitor (short stay)) visas and entry permits who intend to undertake more than 4 weeks study in Australia. The new condition requires the holder to pass a chest X-ray examination before undertaking more than 4 weeks study in Australia. The person can be only exempted from this requirement if the holder is a person from a country that is listed by Gazette Notice as a country in relation to which this condition does not apply; and
- to make a number of corrections and minor clarifying and technical amendments. The purpose of these amendments is to ensure that the Migration (1993) Regulations accurately implement and clearly reflect the intended policy and they have no effect on the substantive operation of the Regulations.

The Regulations would commence on gazettal, except subregulation 10.1 which would operate retrospectively from 24 December 1993 and subregulation 10.2 which would operate retrospectively from 1 March 1994.

Subregulation 10.1 amends subclause 802.736(2) by deleting public interest criteria 4005 and 4006 and substituting public interest criteria 4007 and 4008. This amendment allows the applicant to have access to a health waiver and implements the policy intent. The operation of subregulation 8 is made retrospective to 24 December 1993 which was the date on which subclause 802.736(2) was amended by Statutory

Rules 371 of 1993. The effect of the subregulation is entirely beneficial to the applicants concerned and is not prejudicial to any person. Retrospective commencement of this subregulation does not, therefore, contravene subsection 48(2) of the Acts Interpretation Act 1901.

Subregulation 10.2 amends subparagraph 816.821(b)(1v) to extend the categories of persons eligible for an exemption from the fee which would otherwise be payable by applicants for a Class 816 (Special (permanent)) entry permit. The commencement of this regulation is made retrospective to 1 March 1994 to coincide with the commencement of other regulations pertaining to Class 816. The operation of this regulation is entirely beneficial to the applicants concerned and is not prejudicial to any person. Retrospective commencement of the proposed regulation does not, therefore, contravene subsection 48(2) of the Acts Interpretation Act 1901.

Details of the Regulations are set out in the Attachment.

ATTACHMENT

Regulation 1 - Commencement

This regulation provides for subregulations 10.1 to be taken to have commenced on 24 December 1993 and subregulation 10.2 to be taken to have commenced on 1 March 1994. Retrospective commencement is entirely beneficial to the persons concerned and is not prejudicial to any person. Retrospective commencement does not therefore contravene subsection 48(2) of the Acts Interpretation Act 1901.

The remainder of these Regulations commence on gazettal.

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 note following the definition of "Section 47 temporary entry permit" in the Migration (1993) Regulations to include Class 830 entry permit as an entry permit that is a valid entry permit for the purposes of section 47 of Act. Class 830 entry permit was made by Statutory Rule 11 on 4 February 1994.

Regulation 4 - Regulation 2.5 (Qualification - eligibility of spouse)

Subregulation 4.1 omits the words "necessary score" and substitutes the words "qualifying score" in regulation 2.5 of the Migration (1993) Regulations. This amendment is necessary to reflect the changes in terminology introduced by the Migration Amendment ("Points System") Act 1993 which amended the Migration Act 1958.

Regulation 5 - Regulation -2.6 (Reconsideration of application that is put aside)

Subregulation 5.1 omits regulation 2.6 from the Migration (1993) Regulations. This amendment is a consequence of the amendment to the Migration Act 1958 by the Migration Amendment ("Points System") Act 1993. The mechanism for reconsidering an application is provided for in the Migration Act 1958, therefore regulation 2.6 is no longer necessary.

Regulation 6 - Regulation 2.16 (Application for certain classes Of visas to have effect as application. for visas of certain other classes)

This regulation amends. paragraph 2.16(4) of the Migration (1993) Regulations to reflect the change in name of Chapter 1.3, Group 1.3 of Schedule 2 by Statutory Rule 11 of 4 February 1994. The name was changed from "Permanent Resident (Refugee and Humanitarian) visas and entry permits" to "Permanent Resident (refugee and humanitarian) (off-shore) visas and entry permits". This is a technical amendment and has no effect on the substantive operation of the regulations.

Regulation 7 - Regulation 2.38 (Breach of condition of an entry permit)

Subregulations 7.1 and 7.2 amend regulation 2.38. The amendments put it beyond doubt that an entry permit may be cancelled for failure by the holder to meet a condition. Such failure may occur if a requirement of that condition ceases to be met by the person whether by reason of any action or lack of action on the part of the person or any other person or otherwise. The effect of the amendment is that an entry permit may be cancelled for breach of condition in three situations: where there is a refusal by the holder to comply with a condition, where there is a failure by the holder to comply with a condition and where the holder has failed to meet a condition.

Regulation 8 - Regulation 8.2 (Saving)

Subregulation 8.1 omits "and (1B)" and substitutes ", (1B) and (1C)" in subregulation 8.2(1) of the Migration (1993) Regulations. Subregulation 8.2(1C), is inserted by these Regulations.

Subregulation 8.2 inserts new subregulation 8.2(1C) in the Migration (1993) Regulations. New subregulation 8.2(1C) provides that the Migration (1989) Regulations have effect as if regulation 20 were repealed; and amendments are made to regulation 14.7A, and item 3 of Part 3 of Schedule 2 by omitting "necessary score" and substituting "qualifying score" wherever occurring. The new subregulation 8.2(1C) is necessary due to the amendments to the Migration Act 1958 made by the Migration Amendment ("Points System") Act 1993 (see notes on regulations 4 and 5, above).

Regulation 9 - Schedule, 2, Chapter 1.1 (Migrant visas and entry permits)

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

Subregulation 9.1 omits clause 105.3.32 and the note following clause 105.3.32 of the Migration (1993) Regulations and substitutes a new clause 105.3.32 and new note following clause 105.3.32. The effect of this amendment is to continue the provisions of the existing clause 105.3.32 while substituting the term "qualifying score" for the

term "necessary score" (see the notes to regulations 3 and 4 above). The purpose of the note after clause 105.332 is to alert the reader that Subdivision B of Division 2 of Part 2 of the Act provides for the application of a "points system" under which applicants for relevant visas are given an assessed score and explains the manner in which the "points system" is used to assess an applicant.

Subregulation 9.2 amends subclause 105.332A(2) of the Migration (1993) Regulations to require that the applicant's spouse must be of working age at the time of application if the applicant satisfies clause 105.332 by reason of the operation of regulation 2.5.

Subregulation 9.3 omits the note after clause 105.332B of the Migration (1993) Regulations. This is a technical amendment and has no effect on the substantive operation of the regulations.

Part 126 - Class 126 (Independent entrant) visa and entry permit

Subregulation 9.4 omits clause 126.322 of the Migration (1993) Regulations. This criterion is reinserted into the Migration (1993) Regulations as a criterion to be met at the time of decision on an application for a Class 126 (independent entrant) visa. (See note to subregulation 9.5 below)

Subregulation 9.5 omits clause 126.331 and the note following clause 126.331 of the Migration (1993) Regulations and substitutes a new clause 126.331 and note and inserts new clause 126.331A. The effect of this amendment is to continue the provisions of the existing clause 126.331 while substituting the term "qualifying score" for the term "necessary score" (see the notes to regulations 3 and 4 above). The purpose of the note after clause 126.331 is the same as the note after clause 105.332 (see the notes to subregulation 7.1 above). New clause 126.331A requires an applicant to meet the prescribed criteria at the time of decision that the applicant has vocational proficiency in English if his or her usual occupation is one included in the Occupations Requiring English List.

Regulation 10 - Schedule 2, Chapter 1.2 (Permanent resident (after entry) entry permits)

Part 802 - Class 802 (Child (after entry)) entry permit

Subregulation 10.1 amends subclause 802.736(2) of the Migration (1993) Regulations. The effect of this amendment is to delete "4005 and 4006" and substitute "4007 and 4008" and allows an applicant access to a health waiver if the prescribed criteria for health waiver are met. The operation of subregulation 10.1 is made retrospective to 24 December 1993 which was the date on which subclause 802.736(2) was amended by Statutory Rules 371 of 1993. The effect of the subregulation is entirely beneficial to the applicants concerned and is not prejudicial to any person. Retrospective commencement of this subregulation does not therefore contravene subsection 48(2) of the Acts Interpretation Act 1901.

Part 816 - Class 816 (Special (permanent)) entry permit

Subregulation 10.2 amends subparagraph 816.821 (b)(iv) of the Migration (1993) Regulations to provide that an applicant who has a relative (including a spouse, child, parent, brother, sister, aunt, uncle or relative-in-law in any degree of that relationship) in Australia May be eligible for a fee exemption if each such relative is also an applicant for a Class 816 (Special (permanent)) entry permit and meets the requirements of this clause. The commencement of this subregulation is made retrospective to 1 March 1994 to coincide with the commencement of other regulations pertaining to Class 816. The operation of this subregulation is entirely beneficial to the applicants concerned and is not prejudicial to any person. Retrospective commencement of the proposed subregulation does not, therefore, contravene subsection 48(2) of the Acts Interpretation Act 1901.

Regulation 11 - Schedule 2, Chapter 1.3 (Permanent resident (refugee and humanitarian) visas and entry permits)

Part 214 - Class 214 (Cambodians (special assistance)) visa and entry permit

This regulation makes a minor technical amendment to paragraph 214.323(a) of the Migration (1993) Regulations by omitting the reference to paragraph 214.321(1) (a) and substituting paragraph 214.321(2)(a). This amendment has no effect on the substantive operation of the Regulations and corrects a typographical error.

Regulation 12 - Schedule 2, Chapter 2.1 (Temporary resident visas and entry permits)

Part 304 - Class 304 (Special equivalent 1989 (temporary)) visa and entry permit

Subregulation 12.1 omits clause 304.223 of the Migration (1993) Regulations. This clause is not required as a Class 304 (Special equivalent 1989 (temporary)) visa is issued only as a travel-only visa. Reference, therefore, to operation as a entry visa is unnecessary.

Subregulation 12.2 omits clause 304.421 of the Migration (1993) Regulations and substitutes a new clause 304.421. The new clause 304.421 continues the provisions of the existing subclause 304.421(2) and the existing subclause 304.421(3) has been omitted. The reason for the amendment is that the Class 304 (special equivalent) entry permit can only be granted at the Entry Control Point and cannot be granted after entry, therefore subclause 304.421(3) is not required.

Subregulation 12.3 amends the definition of "Arts Minister" in clause 420.131 of the Migration (1993) Regulations to read the Minister of State for Communications and the Arts. This is a technical amendment and has no effect on the substantive operation of the regulations.

Regulation 13 - Schedule 2, Chapter 2.2 (Student visas and entry permits)

Part 560 - Class 560 (Student (category AD) visa and entry permit

Subregulation 13.1 omits the note following subclause 560.822(2) in the Migration (1993) Regulations. This amendment is necessary as a consequence of an amendment

made to omit subregulation 7.24(3) of the Migration (1993) Regulations by Statutory Rules 371 of 1993 on 24 December 1993, to which this note refers.

Part 561 - Class 561 (Student (category 8)) visa and entry permit

Subregulation 13.2 omits the note following clause 561.822 of the Migration (1993) Regulations. This amendment is necessary as a consequence of an amendment made to omit subregulation 7.24(3) of the Migration (1993) Regulations by Statutory Rules 371 of 1993 on 24 December 1993, to which this note refers.

Part 562 - Class 562 (Iranian postgraduate student) visa and entry permit

Subregulation 13.3 amends the heading to Part 562 of the Migration (1993) Regulations by deleting "(Primary Person)". This amendment corrects a typographical error in the heading.

Regulation 14 - Schedule 2, Chapter 2.3 (Visitor visas and entry permits)

Part 661 - Class 661 (Tourist (special arrangements)) visa and entry permit

Subregulation 14.1 amends clause 661.341 of the Migration (1993) Regulations by omitting "9202 and 9225" and substituting "9202, 9225 and 9234". The effect of this amendment is to continue the provisions of the existing clause 661.341 and also to provide that the mandatory condition 9234, inserted by subregulation 21.2 of these Regulations, applies to applicants. See the notes to subregulation 21.2 below, as to the operation of the new condition 9234.

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

Subregulation 14.2 amends clause 680.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 14.3 inserts new clause 680.734 after clause 680.733 of the Migration (1993) Regulations. The effect of this amendment is to insert a prescribed criterion to be met at the time of decision for an entry permit after entry that the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training.

Subregulation 14.4 amends clause 680.741 of the Migration (1993) Regulations by omitting "9106 and 92.03" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

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

Subregulation 14.5 amends clause 682.341 of the Migration (1993) Regulations by omitting "9202 and 9215" and substituting "9202, 9215 and 9234". The effect of this

amendment is the same as that provided In subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 14.6 inserts a new clause 682.734 after clause 682.733 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 14.7 amends clause 682.741 of the Migration (1993) Regulations by omitting "9203 and 9215" and substituting "9203, 9215 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

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

Subregulation 14.8 amends clause 683.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 14.9 inserts a new clause 683.734 after clause 683.733 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 14.10 amends clause 683.741 of the Migration (1993) Regulations by omitting "9106 and 9203" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above)

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

Subregulation 14.11 amends clause 684.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 14.12 inserts a new clause 684.731A after clause 683.731 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 14.13 amends clause 684.741 of the Migration (1993) Regulations by omitting "9106 and 9203" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Part 685 (Medical treatment) visa and entry permit

Subregulation 14.14 amends clause 685.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this

amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 14.15 inserts a new clause 685.732A after clause 685.732 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 14.16 amends clause 685.741 of the Migration (19,93) Regulations by omitting "9106 and 9203" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Regulation 15 - Schedule 2, Chapter 2.4 (Visitor (short stay) visas and entry Permits)

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

Subregulation 15.1 amends clause 670.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 15.2 inserts a new clause 670.731A after clause 670.731 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 15.3 amends clause 670,741 of the Migration (1993) Regulations by omitting "9106 and 9203" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

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

Subregulation 15.4 amends clause 672.341 of the Migration (1993) Regulations by omitting "9202 and 9215" and substituting "9202, 9215 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 15.5 inserts a new clause 672.731A after clause 672.731 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 15.6 amends clause 672.741 of the Migration (1993) Regulations by omitting "9203 and 9215" and substituting "9203, 9215 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

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

Subregulation 15.7 amends clause 673.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 15.8 inserts a new clause 673.731A after clause 673.731 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 15.9 amends clause 673.741 of the Migration (1993) Regulations by omitting "9106 and 9203" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

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

Subregulation 15.10 amends clause 674.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 15.11 inserts a new clause 674.731A after clause 674.731 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 15.12 amends clause 674.741 of the Migration (1993) Regulations by omitting "9106 and 9203" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

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

Subregulation 15.13 amends clause 675.341 of the Migration (1993) Regulations by omitting "9201 and 9202" and substituting "9201, 9202 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Subregulation 15.14 inserts a new clause 675.731A after clause 675.731 of the Migration (1993) Regulations. The effect of this amendment is the same as that provided in subregulation 14.3 of these Regulations (see the notes to subregulation 14.3 above).

Subregulation 15.15 amends clause 675.741 of the Migration (1993) Regulations by omitting "9106 and 9203" and substituting "9106, 9203 and 9234". The effect of this amendment is the same as that provided in subregulation 14.1 of these Regulations (see the notes to subregulation 14.1 above).

Regulation 16 - Schedule 2, Chapter 2.5 (Extended eligibility visas and entry permits)

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

Subregulations 16.1, 16.2 and 16.4 omit clauses 820.431, 820.441 and 820.741 respectively and insert new clauses. The omitted clauses impose on applicants a terminating condition that there be material change in circumstances on the basis of which the visa or entry permit was granted. The new clauses insert the same condition as a mandatory rather than a terminating condition. The effect of the amendment is that if the condition is breached the visa or entry permit may be cancelled. A terminating condition, if breached, results in automatic cancellation of the visa or entry permit.

Subregulations 16.3 amends clause 820.711 of the Migration (1993) Regulations by inserting new subclause 820.711(2A) after subclause 820.711(2). The effect of new subclause 820.711(2A) is to provide that an application for a Class 820 entry permit by a person who is a dependent child of the applicant born after the lodging of, and before the making of a decision on, the application by that other applicant, may be added to that application.

Subregulation 1116.5 amends paragraph 820.822(c) of the Migration (1993) Regulations by omitting the word "clause" and substituting the word "subclause". This is a technical amendment and has no effect on the substantive operation of the regulations.

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

Subregulations 16.6 and 16.10 omit clauses 826.431 and 826.741 respectively and insert new clauses. The omitted clauses impose on applicants a terminating condition that there be material change in circumstances on the basis of which the visa or entry permit was granted. The new clauses insert the same condition as a mandatory rather than a terminating condition. The effect of the amendment is that if the condition is breached the visa or entry permit may be cancelled. A terminating condition, if breached, results in automatic cancellation of the visa or entry permit.

Subregulation 16.7 inserts subdivisions 826.43 and 826.44 into the Migration (1993) Regulations. Subdivision 826.43 provides that at the time of decision on the application for the Class 826 visa after entry the applicant must hold a class 826 entry permit. Subdivision 826.44 provides that a condition applying to the class 826 visa is the mandatory condition that during the period of validity of the visa there must be no material change in circumstances on the basis of which the visa was granted.

Subregulation 16.8 amends clause 826.711 of the Migration (1993) Regulations by inserting new subclause 826.711(2A) after subclause 826.711(2). The effect of new subclause 826.711(2A) is to provide that an application for a Class 826 entry permit by a person who is a dependent child of the applicant born after the lodging of, and before the making of a decision on, the application by that other applicant, may be added to that application.

Subregulation 16.9 amends paragraph 826.731(2)(a) of the Migration (1993) Regulations by omitting "821.722(2)" and substituting "826.722(2)". This is a technical amendment and has no effect on the substantive operation of the regulations.

Subregulation 16.11 amends paragraph 826.822(b) of the Migration (1993) Regulations by omitting the word "clause" and substituting the word "subclause". This is a technical amendment and has no effect on the substantive operation of the regulations.

Regulation 17 - Schedule 2, Chapter 2.7 (Provisional visas and entry permits)

Part 300 - Class 300 (Prospective marriage) visa and entry permit

Subregulation 17.1 amends paragraph 300.336(1)(b) of the Migration (1993) Regulations. This amendment is consistent with policy requirements that all members of the family unit of an applicant who are also applicants are required to satisfy prescribed health criteria.

Regulation 18 - Schedule 3 (Provisions with respect to the grant of visas and entry Permits included in certain groups to secondary Persons)

Subregulation 18.1 amends paragraph 027.332(b) of Schedule 3 of the Migration (1993) Regulations. This amendment is consistent with policy requirements that all members of the family unit of an applicant who are also applicants are required to satisfy prescribed health criteria.

Regulation 19 - Schedule 4 (Public interest criteria)

Subregulations 19.1 and 19.2 insert a new requirement into public interest criteria 4005 and 4007. The new criteria to be met is that an applicant for a visa who has been requested by a Commonwealth Medical Officer to provide a signed health undertaking must provide an undertaking that he or she will present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical examination.

Subregulation 19.3 amends clause 4012 of Schedule 4 of the Migration (1993) Regulations. The words "has not been involved in activities indicating contempt, or disregard, for the law or for human rights" are omitted and the words "Is of good character" are substituted. The policy intent is that the person who is the sponsor of the applicant is to be of good character. The amendment clarifies and implements the policy intent.

Regulation 20 - Schedule 5 (Special re-entry criteria)

Regulation 20.1 amends paragraph 5005(a) of Schedule 5 of the Migration (1993) Regulations. This amendment is to have the same wording as in paragraph 5004(a). The policy intent of both paragraphs is the same.

Regulation 21 - Schedule 9 (Visa and entry permit conditions)

Subregulation 21.1 omits clause 9106 in Part 1 of Schedule 9 of the Migration (1993) Regulations and substitutes a new clause 9106. The effect of this amendment is to continue the provisions of existing clause 9106 and to add the changes to prescribed

criteria for grant of the visas and entry permits as inserted by regulations 14 and 15 of these Regulations.

Subregulation 21.2 inserts a new clause 9234 in Part 2 of Schedule 9 of the Migration (1993) Regulations. The new condition requires the holder who is over 16 to pass a chest X-ray examination before undertaking more than 4 weeks study in Australia. The person can be only exempted from this requirement if the holder is a person from a country that is listed by Gazette Notice as a country in relation to which this condition does not apply.

Regulation 22 - Schedule 10 (Amounts of fees in certain currencies)

Subregulation 22.1 omits Schedule 10 of the Migration (1993) Regulations and substitutes the new Schedule 10 as set out in Schedule 2 of these Regulations. The reason for the new Schedule 10 is to update the Schedule as a result of exchange rate variations since the Schedule was last amended.