



Statutory Rules 1994 No. 38¹

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 4 March 1994.

BILL HAYDEN
Governor-General

By His Excellency's Command,

NICK BOLKUS
Minister for Immigration and Ethnic Affairs

1. Commencement

1.1 Subregulation 10.1 is taken to have commenced on 24 December 1993.

1.2 Subregulation 10.2 is taken to have commenced on 1 March 1994.

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

2. Amendment

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

3. Regulation 1.3 (Interpretation)

3.1 Definition of “section 47 temporary entry permit” (note):

Add at the end:

“; (e) Class 830 (1 November 1993 (processing)) entry permits”.

4. Regulation 2.5 (Qualification—eligibility of spouse)

4.1 Omit “necessary score” (twice occurring), substitute “qualifying score”.

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

5.1 Omit the regulation.

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

6.1 After “(refugee and humanitarian)”, insert “(off-shore)”.

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

7.1 After “refuses or fails to comply with”, insert “, or does not meet,”.

7.2 Add at the end:

“(2) For the purposes of subregulation (1), a person is taken not to meet the condition if any 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 of any other person, or otherwise.”.

8. Regulation 8.2 (Saving)

8.1 Subregulation 8.2 (1):

Omit “and (1B)”, substitute “, (1B) and (1C)”.

8.2 After subregulation 8.2 (1B), insert:

“(1C) The Migration (1989) Regulations are taken to have had effect on and after the commencement of this subregulation as if:

- (a) regulation 20 were repealed; and
- (b) in regulation 147A, and item 3 of Part 3 of Schedule 2, ‘necessary score’ (wherever occurring) were omitted and ‘qualifying score’ substituted.”.

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

9.1 Clause 105.332 and note:

Omit the clause and note, substitute:

“105.332 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 2 of Part 2 of the Act.

[NOTE: The Subdivision mentioned (sections 29 to 32) provides for the application of a “points” system under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2 of Part 2 (regulations 2.4 and 2.5), and Schedule 7, of these Regulations. In certain circumstances, attributes of the spouse of an applicant may be taken into account (regulation 2.5). Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (section 32).]”.

9.2 Subclause 105.332A (2):

Omit “is of working age”, substitute “was, at the time of application, of working age”.

9.3 Note following clause 105.332B:

Omit the note.

9.4 Clause 126.322:

Omit the clause.

9.5 Clause 126.331 and note:

Omit the clause and note, substitute:

“126.331 The applicant has the qualifying score when assessed in relation to the visa under Subdivision B of Division 2 of Part 2 of the Act.

[NOTE: The Subdivision mentioned (sections 29 to 32) provides for the application of a “points” system under which applicants for relevant visas are given an assessed score based on the prescribed number of points for particular attributes, which is assessed against the relevant pool mark and pass mark. The prescribed points and the manner of their allocation are provided for in Division 2 of Part 2 (see regulation 2.4), and Schedule 7, of these Regulations. Pool marks and pass marks are set from time to time by the Minister by notice in the *Gazette* (section 32).]

“126.331A If the usual occupation of the applicant is an occupation included in the Occupations Requiring English List, the applicant satisfies the Minister that the applicant has vocational proficiency in English.”.

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

10.1 Subclause 802.736 (2):

Omit “4005 and 4006”, substitute “4007 and 4008”.

10.2 Subparagraph 816.821 (b) (iv):

Omit the subparagraph, substitute:

“(iv) either:

(A) the applicant does not have a relative (including spouse, child, parent, brother, sister, aunt, uncle of relative-in-law in any

- degree of that relationship) in Australia who is not dependent on the applicant; or
- (B) if the applicant has any relative of the kind referred to in subparagraph (A), each such relative:
- (I) is also an applicant for a Class 816 entry permit; and
 - (II) meets the requirements of this paragraph; and”.

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

11.1 Paragraph 214.323 (a):

Omit “214.321 (1) (a)”, substitute “214.321 (2) (a)”.

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

12.1 Clause 304.223:

Omit the clause.

12.2 Clause 304.421:

Omit the clause, substitute:

“304.421 The applicant:

- (a) is the holder, as a primary person, of a Class 304 entry permit that:
 - (i) is not subject to the condition that the holder will not be granted a further entry permit while the holder remains in Australia; and
 - (ii) was granted for a period ending on or after the day by which, according to the application, the applicant intends next to enter Australia; and
- (b) has complied substantially with the conditions to which that entry permit is subject.”.

12.3 Clause 420.131:

Omit all the words after “Minister”, substitute “for Communications and the Arts.”.

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

13.1 Note following subclause 560.822 (2):

Omit the note.

13.2 Note following clause 561.822:

Omit the note.

13.3 Part 562 (heading):

Omit “(PRIMARY PERSON)”.

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

14.1 Clause 661.341:

Omit “9202 and 9225”, substitute “9202, 9225 and 9234”.

14.2 Clause 680.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

14.3 After clause 680.733, insert:

“680.734 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.”.

14.4 Clause 680.741:

Omit “9106 and 9203”, substitute “9106, 9203 and 9234”.

14.5 Clause 682.341:

Omit “9202 and 9215”, substitute “9202, 9215 and 9234”.

14.6 After clause 682.733, insert:

“682.734 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.”.

14.7 Clause 682.741:

Omit “9203 and 9215”, substitute 9203, 9215 and 9234”.

14.8 Clause 683.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

14.9 After clause 683.733, insert:

“683.734 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.”.

14.10 Clause 683.741:

Omit “9106 and 9203”, substitute “9106, 9203 and 9234”.

14.11 Clause 684.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

14.12 After clause 684.731, insert:

“684.731A 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.”.

14.13 Clause 684.741:

Omit “9106 and 9203”, substitute 9106, 9203 and 9234”.

14.14 Clause 685.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

14.15 After clause 685.732, insert:

“685.732A 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.”.

14.16 Clause 685.741:

Omit “9106 and 9203”, substitute “9106, 9203 and 9234”.

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

15.1 Clause 670.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

15.2 After clause 670.731, insert:

“670.731A 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.”.

15.3 Clause 670.741:

Omit “9106 and 9203”, substitute “9106, 9203 and 9234”.

15.4 Clause 672.341:

Omit “9202 and 9215”, substitute “9202, 9215 and 9234”.

15.5 After clause 672.731, insert:

“672.731A 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.”.

15.6 Clause 672.741:

Omit “9203 and 9215”, substitute “9203, 9215 and 9234”.

15.7 Clause 673.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

15.8 After clause 673.731, insert:

“673.731A 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.”.

15.9 Clause 673.741:

Omit “9106 and 9203, substitute “9106, 9203 and 9234”.

15.10 Clause 674.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

15.11 After clause 674.731, insert:

“674.731A 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.”.

15.12 Clause 674.741:

Omit “9106 and 9203”, substitute “9106, 9203 and 9234”.

15.13 Clause 675.341:

Omit “9201 and 9202”, substitute “9201, 9202 and 9234”.

15.14 After clause 675.731, insert:

“675.731A 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.”.

15.15 Clause 675.741:

Omit “9106 and 9203”, substitute “9106, 9203 and 9234”.

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

16.1 Clause 820.341:

Omit the clause and note, substitute:

“820.431Mandatory condition: 9233.”.

16.2 Clause 820.441:

Omit the clause and note, substitute:

“820.441Mandatory condition: 9233.”.

16.3 After subclause 820.711 (2), insert:

“(2A) An application by a person who:

(a) is applying as the dependent child of an applicant for a Class 820 entry permit; and

(b) was 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.”.

16.4 Clause 820.741:

Omit the clause and note, substitute:

“820.741Mandatory condition: 9233.”.

16.5 Paragraph 820.822 (c):

Omit “clause”, substitute “subclause”.

16.6 Clause 826.341:

Omit the clause and note, substitute:

“826.341Mandatory condition: 9233.”.

16.7 After clause 826.421, insert:

“826.43 Criteria to be satisfied at time of decision (visa—after entry)

826.431 The applicant continues to hold the entry permit referred to in clause 826.421.

“826.44 Conditions (visa—after entry)

826.441 Mandatory condition: 9233.”.

16.8 After subclause 826.711 (2), insert:

“(2A) An application by a person who:

(a) is applying as the dependent child of an applicant for a Class 826 entry permit; and

(b) was 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.”.

16.9 Paragraph 826.731 (2) (a):

Omit “821.722 (2)”, substitute “826.722 (2)”.

16.10 Clause 826.741:

Omit the clause and note, substitute:

“826.741 Mandatory condition: 9233.”.

16.11 Paragraph 826.822 (b):

Omit “clause”, substitute “subclause”.

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

17.1 Paragraph 300.336 (1) (b):

Omit “, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria”.

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

18.1 Paragraph 027.332 (b):

Omit “, unless the Minister is satisfied that it would be unreasonable to require the applicant to undergo assessment in relation to those criteria”.

19. Schedule 4 (Public interest criteria)

19.1 Paragraph 4005 (a):

Omit the paragraph, substitute:

“(a) both:

- (i) is free from tuberculosis or other any communicable disease of a fatal or serious nature which, in the opinion of a Commonwealth medical officer, is a threat to public health in Australia, and is not suspected of having contracted such a disease; and
- (ii) if the applicant is a person from whom a Commonwealth medical officer has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical examination, has provided such an undertaking; and”.

19.2 Paragraph 4007 (a):

Omit the paragraph, substitute:

“(a) both:

- (i) is free from tuberculosis or other any communicable disease of a fatal or serious nature which, in the opinion of a Commonwealth medical officer, is a threat to public health in Australia, and is not suspected of having contracted such a disease; and
- (ii) if the applicant is a person from whom a Commonwealth medical officer has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical examination, has provided such an undertaking; and”.

19.3 Clause 4012:

Omit “has not been involved in activities indicating contempt, or disregard, for the law or for human rights”, substitute “is of good character”.

20. Schedule 5 (Special re-entry criteria)

20.1 Paragraph 5005 (a):

Omit “of the person as”, substitute “of the whereabouts of the person, being”.

21. Schedule 9 (Visa and entry permit conditions)

21.1 Clause 9106:

Omit the clause, substitute:

“9106. While in Australia the holder must not engage in:

- (a) any course:
 - (i) leading to the completion of a primary or secondary education program; or
 - (ii) leading to a degree, diploma, trade certificate or other formal award; or

- (iii) preliminary to a course leading to a degree, diploma, trade certificate or other formal award; or
- (b) any other course (other than a language training program) completion of which may be unconditionally credited towards, or accepted as a prerequisite for, a course of studies at a higher educational institution (including a post-secondary educational institution) within or outside Australia; or
- (c) any studies or training of more than 3 months' duration.”.

21.2 Add at the end:

“9234. If the holder is over 16 and:

- (a) is from a country other than a country that is designated, by Gazette Notice, as a country in relation to which this condition does not apply; and
- (b) intends to study in a class-room environment for a period greater than 4 weeks;

the holder must pass a chest X-ray examination carried out by a medical practitioner who is qualified as a radiologist before the holder can commence that study.”.

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

22.1 Omit the Schedule, substitute:

SCHEDULE 10

Regulation 7.25

AMOUNTS OF FEES IN CERTAIN CURRENCIES**PART 1—CANADA, FRANCE, GERMANY, HONG KONG, AND JAPAN**

Australia Dollar	Canada Dollar	France Franc	Germany Deutschmark	Hong Kong Dollar	Japan Yen
1,900	1,870	8,330	2,460	10,800	153,000
1,750	1,722	7,670	2,265	9,940	141,000
1,600	1,575	7,010	2,070	9,090	129,000
1,450	1,427	6,360	1,880	8,240	117,000
1,300	1,279	5,700	1,685	7,390	105,000
1,000	984	4,380	1,295	5,680	81,000
780	768	3,420	1,010	4,440	63,000
390	384	1,710	505	2,220	32,000
385	379	1,690	500	2,190	31,000
370	364	1,630	480	2,110	30,000
360	354	1,580	470	2,050	29,000
300	295	1,320	390	1,710	25,000
240	236	1,060	315	1,370	20,000
230	226	1,010	300	1,310	19,000
200	197	880	260	1,140	17,000
190	187	840	250	1,080	16,000
175	172	770	230	1,000	15,000
155	153	680	205	880	13,000
145	143	640	190	830	12,000
130	128	570	170	740	11,000
105	103	460	140	600	9,000
100	98	440	130	570	9,000
60	59	270	80	350	5,000
50	49	220	65	290	5,000
30	30	140	40	170	3,000
20	20	90	30	120	2,000
10	10	50	15	60	1,000
5	5	40	10	30	1,000

SCHEDULE 10—continued

PART 2—MALAYSIA, THE NETHERLANDS, THE PHILIPPINES AND SINGAPORE

Australia Dollar	Malaysia Ringgit	Netherlands Guilder	Philippines Peso	Singapore Dollar
1,900	3,859	2,755	37,205	2,217
1,750	3,554	2,535	34,270	2,042
1,600	3,249	2,320	31,330	1,867
1,450	2,945	2,100	28,395	1,692
1,300	2,640	1,885	25,455	1,517
1,000	2,031	1,450	19,580	1,167
780	1,584	1,130	15,275	910
390	792	565	7,640	455
385	782	560	7,540	449
370	751	540	7,245	432
360	731	525	7,050	420
300	609	435	5,875	350
240	487	350	4,700	280
230	467	335	4,505	268
200	406	290	3,920	233
190	386	275	3,720	222
175	355	255	3,430	204
155	315	225	3,035	181
145	294	210	2,840	169
130	264	190	2,545	152
105	213	155	2,060	122
100	203	145	1,960	117
60	122	90	1,175	70
50	102	75	980	58
30	61	45	590	35
20	41	30	395	23
10	20	15	200	12
5	10	10	100	6

SCHEDULE 10—continued

PART 3—SWEDEN, SWITZERLAND, THE UNITED KINGDOM AND THE UNITED STATES OF AMERICA

Australia	Sweden	Switzerland	United Kingdom	United States of America
Dollar	Krona	Franc	Pound	Dollar
1,900	11,150	2,060	947	1,405
1,750	10,250	1,900	872	1,295
1,600	9,350	1,740	798	1,184
1,450	8,500	1,570	723	1,073
1,300	7,600	1,410	648	962
1,000	5,850	1,090	499	740
780	4,600	850	389	577
390	2,300	430	194	288
385	2,300	420	192	285
370	2,200	410	184	274
360	2,150	390	179	266
300	1,800	330	150	222
240	1,450	260	120	178
230	1,350	250	115	170
200	1,200	220	100	148
190	1,150	210	95	141
175	1,050	190	87	129
155	950	170	77	115
145	850	160	72	107
130	800	150	65	96
105	650	120	52	78
100	600	110	50	74
60	400	70	30	44
50	300	60	25	37
30	200	40	15	22
20	150	30	10	15
10	100	20	5	7
5	50	10	2	4

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 11 March 1994.
2. Statutory Rules 1992 No. 367 as amended by 1993 Nos. 19, 29, 88, 169, 175, 218, 235, 253, 267, 283 309, 310, 329, 363 and 371; 1994 No. 11.