



Migration Amendment (Family Violence and Other Measures) Act 2018

No. 162, 2018

**An Act to amend the *Migration Act 1958*, and for
related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Migration Amendment (Family Violence and Other Measures) Act 2018

No. 162, 2018

An Act to amend the *Migration Act 1958*, and for related purposes

[Assented to 10 December 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Migration Amendment (Family Violence and Other Measures) Act 2018*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	10 December 2018
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	17 April 2019 (F2019N00035)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Sponsored family visas

Part 1—Amendments

Migration Act 1958

1 Subsection 5(1)

Insert:

approved family sponsor means a person:

- (a) who has been approved under section 140E as a family sponsor in relation to a class prescribed by the regulations for the purpose of subsection 140E(2); and
- (b) whose approval has not been cancelled under section 140M, or otherwise ceased to have effect under section 140G, in relation to that class.

2 Subsection 5(1) (definition of *approved sponsor*)

Repeal the definition, substitute:

approved sponsor means:

- (a) an approved family sponsor; or
- (b) an approved work sponsor.

3 Subsection 5(1)

Insert:

approved work sponsor means:

- (a) a person:
 - (i) who has been approved under section 140E as a work sponsor in relation to a class prescribed by the regulations for the purpose of subsection 140E(2); and
 - (ii) whose approval has not been cancelled under section 140M, or otherwise ceased to have effect under section 140G, in relation to that class; or
- (b) a person (other than a Minister) who is a party to a work agreement.

Note: A partnership or an unincorporated association may be an approved work sponsor: see subsections 140ZB(1) and 140ZE(1) respectively.

4 Section 140AA (heading)

Repeal the heading, substitute:

140AA Purposes of this Division

5 Section 140AA

Before “The purposes”, insert “(1)”.

6 Section 140AA

After “of this Division”, insert “, to the extent it applies in relation to the temporary sponsored work visa program,”.

7 Paragraph 140AA(a)

Omit “a temporary sponsored work visa program”, substitute “the program”.

8 Subparagraph 140AA(b)(ii)

Omit “temporary sponsored work visa”.

9 Paragraph 140AA(d)

Before “sponsors”, insert “work”.

10 At the end of section 140AA

Add:

- (2) The purposes of this Division, to the extent it applies in relation to the sponsored family visa program, are:
 - (a) to strengthen the integrity of the program; and
 - (b) to place greater emphasis on the assessment of persons as family sponsors; and
 - (c) to improve the management of family violence in the delivery of the program.
- (3) The purposes referred to in subsection (2) are to be achieved by establishing a framework that:

- (a) requires the approval of persons as family sponsors before any relevant visa applications are made; and
- (b) imposes obligations on persons who are or were approved family sponsors; and
- (c) provides for sanctions if such obligations are not satisfied; and
- (d) facilitates the sharing of personal information in accordance with this Division.

11 Subdivision B of Division 3A of Part 2 (heading)

Repeal the heading, substitute:

Subdivision B—Approval of sponsors

12 Section 140E (heading)

Repeal the heading, substitute:

140E Minister to approve work and family sponsors

13 Subsection 140E(1)

Before “sponsor in”, insert “work”.

14 Subsection 140E(1) (note)

Repeal the note, substitute:

Note: A person (other than a Minister) who is a party to a work agreement is an approved work sponsor and does not need to be approved as a work sponsor under this section (see paragraph (b) of the definition of *approved work sponsor*).

15 Before subsection 140E(2)

Insert:

- (1A) The Minister must approve a person as a family sponsor in relation to one or more classes prescribed for the purpose of subsection (2) if prescribed criteria are satisfied.

16 Subsection 140E(2)

Before “sponsor”, insert “work sponsor or family”.

17 Paragraphs 140E(3)(b) and (c)

Before “sponsor”, insert “work sponsor or family”.

18 Section 140F (heading)

Repeal the heading, substitute:

140F Approval process

19 Subsections 140F(1) and (2)

Before “sponsor”, insert “work sponsor or family”.

20 Section 140G (heading)

Repeal the heading, substitute:

140G Terms of approval

21 Subsections 140G(1) and (4)

Before “sponsor”, insert “work sponsor or family”.

22 Section 140GA (heading)

Repeal the heading, substitute:

140GA Variation of terms of approval

23 Subsections 140GA(1) and (3)

Before “sponsor”, insert “work sponsor or family”.

24 After section 140GA

Insert:

**Subdivision BA—Approval of nominations made by approved
work sponsors**

25 Subsections 140GB(1), (2) and (3)

After “approved”, insert “work”.

26 Paragraph 140GB(4)(b)

Before “sponsor”, insert “work”.

27 Subsections 140GBA(1), (3), (5), (6) and (6A)

After “approved” (wherever occurring), insert “work”.

28 Subsection 140GBA(7) (definition of *eligible temporary visa holder*)

After “approved” (wherever occurring), insert “work”.

29 Subsection 140GBB(1)

After “approved”, insert “work”.

30 Subsection 140GBB(2)

Omit “a sponsor”, substitute “an approved work sponsor”.

31 Subsections 140GBB(4) and 140GBC(1), (2) and (3)

After “approved”, insert “work”.

32 Section 140GC (note)

After “approved”, insert “work”.

33 Paragraph 140H(6)(b)

Before “sponsor”, insert “work sponsor or family”.

34 Subsection 140HA(1)

After “following matters”, insert “to the extent they relate to a person who is or was an approved work sponsor”.

35 Paragraph 140HA(1)(e)

Omit “an approved sponsor, a former approved sponsor”, substitute “the person”.

36 Paragraph 140HA(1)(g)

Omit “an approved sponsor”, substitute “the person”.

37 Paragraphs 140HA(1)(h) and (i)

Omit “an approved sponsor or former approved sponsor”, substitute “the person”.

38 Paragraphs 140HA(2)(a) and (b)

After “approved” (wherever occurring), insert “work”.

39 After subsection 140HA(2)

Insert:

(2A) Subject to subsection (2B), the Minister must take all reasonable steps to ensure that regulations made under section 504 for the purposes of subsection 140H(1) include obligations in relation to the following matters to the extent they relate to a person who is or was an approved family sponsor:

- (aa) paying prescribed medical, hospital, aged care or other health-related expenses incurred by a visa holder or a former visa holder;
- (a) complying with prescribed requirements to keep information and provide information to the Minister;
- (b) notifying the Minister of prescribed changes in the circumstances of the person, a visa holder or a former visa holder.

(2B) For any particular matter mentioned in subsection (2A), the Minister must take all reasonable steps to ensure that the obligations in the relevant regulations apply in relation to:

- (a) all approved family sponsors or former approved family sponsors; or
- (b) a specified class (or classes) of approved family sponsors or former approved family sponsors.

40 Subsection 140HA(3)

Omit “Subsection (1) does”, substitute “Subsections (1) and (2A) do”.

42 Subparagraph 140K(1)(a)(ii)

Before “sponsor”, insert “work sponsor or family”.

43 Subparagraph 140K(1)(a)(iv)

Omit “section 119”, substitute “section 114”.

Note: This item fixes an incorrect cross-reference.

44 Subparagraph 140K(1)(a)(v)

Omit “section 120”, substitute “section 115”.

Note: This item fixes an incorrect cross-reference.

45 Subparagraph 140K(2)(a)(i)

After “approval”, insert “as a work sponsor or family sponsor”.

46 Subparagraph 140K(2)(a)(iii)

Omit “section 119”, substitute “section 114”.

Note: This item fixes an incorrect cross-reference.

47 Subparagraph 140K(2)(a)(iv)

Omit “section 120”, substitute “section 115”.

Note: This item fixes an incorrect cross-reference.

48 Subparagraph 140K(3)(a)(i)

Omit “a sponsor”, substitute “an approved sponsor”.

49 Subparagraph 140K(3)(a)(ii)

Before “sponsor”, insert “work sponsor or family”.

50 Paragraph 140L(3)(b)

Before “sponsor”, insert “work sponsor or family”.

51 Paragraphs 140M(1)(a) and (b)

Omit “as a sponsor”, substitute “as a work sponsor or family sponsor”.

52 Paragraph 140M(1)(c)

After “approvals”, insert “as a work sponsor or family sponsor”.

53 Paragraph 140M(1)(d)

Before “sponsor in”, insert “work sponsor or family”.

54 Subsection 140M(2)

Before “sponsor in”, insert “work sponsor or family”.

55 Section 140N (heading)

Repeal the heading, substitute:

140N Process for cancelling approval or barring approved sponsor

56 Subsections 140N(1) and (3)

Before “sponsor”, insert “work sponsor or family”.

57 Paragraphs 140O(4)(b) and 140P(2)(b)

Before “sponsor”, insert “work sponsor or family”.

59 Paragraph 140X(a)

After “complied with”, insert “by a person who is or was an approved work sponsor”.

60 Paragraph 140X(aa)

Omit “required under subsection 140H(1) to satisfy a sponsorship obligation”, substitute “or was an approved work sponsor”.

61 Subsection 140ZH(1)

Repeal the subsection, substitute:

Personal information about approved work sponsors etc.

- (1) The Minister may disclose personal information of a prescribed kind about a person mentioned in column 2 of an item of the following table to a person or body mentioned in column 3 of the item:

Disclosure of personal information		
Column 1	Column 2	Column 3
Item	If the personal information is about ...	then, the Minister may disclose that personal information to the following ...
1	a person who is a holder of, or former holder of, a visa of a prescribed kind (however described)	(a) an approved work sponsor of the person; (b) a former approved work sponsor of the person; (c) an agency of the Commonwealth, or of a State or Territory, prescribed by the regulations
2	an approved work sponsor of, or former approved work sponsor of, a person mentioned in item 1 of this table	(a) the person; (b) an agency of the Commonwealth, or of a State or Territory, prescribed by the regulations

Personal information about approved family sponsors etc.

- (1A) The Minister may disclose personal information of a prescribed kind about a person mentioned in column 2 of an item of the following table to a person or body mentioned in column 3 of the item:

Disclosure of personal information		
Column 1	Column 2	Column 3
Item	If the personal information is about ...	then, the Minister may disclose that personal information to the following ...
1	a person who proposes to apply for a visa of a prescribed kind (however described)	(a) an applicant for approval as a family sponsor in relation to the person; (b) an approved family sponsor of the person; (c) an agency of the Commonwealth, or of a State or Territory, prescribed by the

Schedule 1 Sponsored family visas
Part 1 Amendments

Disclosure of personal information		
Column 1	Column 2	Column 3
Item	If the personal information is about ...	then, the Minister may disclose that personal information to the following ...
		regulations
2	a person who is an applicant for, or a holder or former holder of, a visa of a prescribed kind (however described)	(a) an approved family sponsor of the person; (b) an agency of the Commonwealth, or of a State or Territory, prescribed by the regulations
3	an applicant for approval as a family sponsor	(a) a person who proposes to apply for a visa if the applicant is approved as a family sponsor; (b) an agency of the Commonwealth, or of a State or Territory, prescribed by the regulations
4	an approved family sponsor of a person mentioned in item 1 or 2 of this table	(a) the person; (b) an agency of the Commonwealth, or of a State or Territory, prescribed by the regulations
5	a former approved family sponsor of a person who is an applicant for, or a holder of, a visa of a prescribed kind (however described)	(a) the person; (b) an agency of the Commonwealth, or of a State or Territory, prescribed by the regulations

Regulations may prescribe circumstances for disclosure etc.

62 At the end of subsections 140ZH(2) and (3)

Add “under subsection (1) or (1A)”.

63 Before subsection 140ZH(4)

Insert:

Notice of disclosure

64 Subsection 140ZH(4)

After “subsection (1)”, insert “or (1A)”.

65 Subsection 140ZJ(1)

After “approved”, insert “work”.

66 Section 245AQ (definition of *sponsor class*)

Omit “of sponsor”, insert “of work sponsor or family sponsor”.

67 Section 245AQ (paragraphs (a) and (b) of the definition of *sponsorship-related event*)

Before “sponsor under”, insert “work sponsor or family”.

Part 2—Transitional and application provisions

68 Definitions

In this Part:

commencement means the commencement of this item.

Migration Act means the *Migration Act 1958*.

69 Existing approvals of sponsors

- (1) This item applies if:
 - (a) a person was approved as a sponsor under section 140E of the Migration Act before commencement; and
 - (b) immediately before commencement, the approval is in effect.
- (2) The person's approval continues to have effect (and may be dealt with), after commencement, as if it were an approval of the person as a work sponsor under section 140E of the Migration Act, as amended by this Schedule.
- (3) Despite the amendments of sections 140G and 140GA of the Migration Act made by this Schedule, a term of the person's approval:
 - (a) continues to have effect after commencement; and
 - (b) may be varied after commencement in accordance with section 140GA of that Act, as amended by this Schedule.

70 Continuation of bars placed on persons

- (1) This item applies if:
 - (a) before commencement, a person was barred, under section 140M of the Migration Act, from doing a thing for a particular period; and
 - (b) immediately before commencement, that period has not ended.
- (2) Despite the amendments of sections 140K, 140L and 140M of the Migration Act made by this Schedule, the bar:
 - (a) continues to have effect after commencement; and

- (b) may be waived after commencement in accordance with sections 140O and 140P of that Act, as amended by this Schedule.

71 Application—subsections 140ZH(1) and (1A) of the Migration Act

Subsections 140ZH(1) and (1A) of the Migration Act, as inserted by this Schedule, apply in relation to the disclosure of personal information after commencement, whether the information was collected before or after commencement.

*[Minister's second reading speech made in—
House of Representatives on 1 September 2016
Senate on 10 October 2016]*

(94/16)
