



# Migration Regulations 1994

Statutory Rules No. 268, 1994

made under the

*Migration Act 1958*

## Compilation No. 184

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Volume 1: regulations 1.01–5.45

Schedule 1

Volume 2: Schedule 2 (Subclasses 010–801)

**Volume 3: Schedule 2 (Subclasses 802–995)**

**Schedules 3–5, 6D, 7A, 8–10 and 13**

Volume 4: Endnotes

Each volume has its own contents

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Migration Regulations 1994* that shows the text of the law as amended and in force on 18 April 2017 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## **Schedule 2—Provisions with respect to the grant of Subclasses of visas**

### **Subclass 802—Child**

#### **802.1—Interpretation**

##### **802.111**

In this Part:

**letter of support** means a letter of support provided by a State or Territory government welfare authority that:

- (a) supports a child's application for permanent residency in Australia; and
- (b) sets out:
  - (i) the circumstances leading to the involvement of a State or Territory government welfare authority in the welfare of the child; and
  - (ii) the State or Territory government welfare authority's reasons for supporting the child's application for permanent residency in Australia; and
- (c) describes the nature of the State or Territory government welfare authority's continued involvement in the welfare of the child; and
- (d) shows the letterhead of the State or Territory government welfare authority; and
- (e) is signed by a manager or director employed by the State or Territory government welfare authority.

Note: **eligible New Zealand citizen** is defined in regulation 1.03.

#### **802.2—Primary criteria**

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria. However, if an application for a visa is supported by a letter of support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

#### **802.21—Criteria to be satisfied at time of application**

##### **802.211**

If the applicant is a person to whom section 48 of the Act applies, the applicant:

- (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
- (b) since last applying for a substantive visa, has become a dependent child of:
  - (i) an Australian citizen; or
  - (ii) the holder of a permanent visa; or

Clause 802.212

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(iii) an eligible New Zealand citizen.

**802.212**

- (1) The applicant:
  - (a) is a dependent child of a person who is an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
  - (b) subject to subclause (2), has not turned 25.
- (1A) If the applicant is a step-child of the person mentioned in paragraph (1)(a), the applicant is a step-child within the meaning of paragraph (b) of the definition of *step-child*.
- (2) Paragraph (1)(b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b)(ii) of the definition of *dependent child*.

**802.213**

- (1) If the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in subclause 802.212(1) is an adoptive parent of the applicant, the applicant:
  - (a) was under 18 when the adoption took place; and
  - (b) meets the requirements of subclause (2), (3), (4) or (5).
- (2) The applicant meets the requirements of this subclause if the adoption of the applicant was in accordance with the Adoption Convention and an adoption compliance certificate is in force in relation to the adoption.
- (3) The applicant meets the requirements of this subclause if the adoptive parent was not an Australian citizen, holder of a permanent visa or New Zealand citizen when the adoption took place, but subsequently became an Australian citizen, holder of a permanent visa or New Zealand citizen.
- (4) The applicant meets the requirements of this subclause if:
  - (a) the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or eligible New Zealand citizen; and
  - (b) before the adoption, a competent authority in Australia approved the adoptive parent as a suitable adoptive parent, or the adoptive parent and the adoptive parent's spouse or de facto partner as suitable adoptive parents, for the applicant.
- (5) The applicant meets the requirements of this subclause if:
  - (a) the applicant was adopted in an overseas country and the adoptive parent was, when the adoption took place, an Australian citizen, holder of a permanent visa or New Zealand citizen; and
  - (b) either:
    - (i) when the adoption took place, the adoptive parent had been residing overseas for more than 12 months; or

- (ii) the Minister is satisfied that, because of compelling or compassionate circumstances, subparagraph (i) should not apply to the applicant; and
- (c) the Minister is satisfied that the residence overseas by the adoptive parent was not contrived to circumvent the requirements for entry to Australia of children for adoption; and
- (d) the adoptive parent has, or the adoptive parent and the adoptive parent's spouse or de facto partner have, lawfully acquired full and permanent parental rights by the adoption.

### 802.214

- (1) If the applicant has turned 18:
  - (a) the applicant:
    - (i) is not engaged to be married; and
    - (ii) does not have a spouse or de facto partner; and
    - (iii) has never had a spouse or de facto partner; and
  - (b) the applicant is not engaged in full-time work; and
  - (c) subject to subclause (2), the applicant has, since turning 18, or within 6 months or a reasonable time after completing the equivalent of year 12 in the Australian school system, been undertaking a full-time course of study at an educational institution leading to the award of a professional, trade or vocational qualification.
- (2) Paragraph (1)(c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b)(ii) of the definition of *dependent child*.

### 802.215

The applicant is:

- (a) a person whose application is supported by a letter of support from a State or Territory government welfare authority; or
- (b) sponsored by a person who:
  - (i) has turned 18; and
  - (ii) is an Australian citizen, a holder of a permanent visa or an eligible New Zealand citizen; and
  - (iii) is:
    - (A) the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212(1)(a); or
    - (B) the cohabiting spouse or de facto partner of the Australian citizen, holder of a permanent visa or eligible New Zealand citizen mentioned in paragraph 802.212(1)(a).

Clause 802.216

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**802.216**

Clauses 802.211 to 802.214 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.

**802.22—Criteria to be satisfied at time of decision**

**802.221**

- (1) In the case of an applicant who had not turned 18 at the time of application, the applicant:
  - (a) continues to satisfy the criterion in clause 802.212; or
  - (b) does not continue to satisfy that criterion only because the applicant has turned 18.
- (2) In the case of an applicant who had turned 18 at the time of application:
  - (a) the applicant:
    - (i) continues to satisfy the criterion in clause 802.212; or
    - (ii) does not continue to satisfy that criterion only because the applicant has turned 25; and
  - (b) the applicant continues to satisfy the criterion in clause 802.214.

**802.222**

If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of Social Services.

**802.223**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**802.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 802 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4020; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 802 visa is a person who satisfies public interest criterion 4007, unless



the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

### **802.225**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

### **802.226**

The sponsorship mentioned in clause 802.215 has been approved by the Minister and is still in force.

Note: Regulation 1.20KB limits the Minister's discretion to approve sponsorships.

### **802.226A**

- (1) Clauses 802.221 to 802.226 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.
- (2) If the application for a visa is supported by a letter of support from a State or Territory government welfare authority:
  - (a) the applicant satisfies:
    - (i) the criteria in subclauses (3), (4), (5) and (6); and
    - (ii) public interest criteria 4001, 4002, 4003, 4018, 4020 and 4021; and
  - (b) the Minister is satisfied that:
    - (i) the grant of visa is in the public interest; and
    - (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.
- (3) The applicant has undergone a medical examination carried out by any of the following (a **relevant medical practitioner**):
  - (a) a Medical Officer of the Commonwealth;
  - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
  - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.
- (4) The applicant:
  - (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
  - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
  - (c) is a person:
    - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
    - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and

Clause 802.311

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- (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
  - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- (5) A relevant medical practitioner:
- (a) has considered:
    - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (3); and
    - (ii) the radiological report (if any) required under subclause (4) in respect of the applicant; and
  - (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.
- (6) If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

### **802.3—Secondary criteria**

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person. However, if an application for a visa is supported by a letter of support from a State or Territory government welfare authority, no member of the family unit is able to satisfy the secondary criteria unless regulation 2.08 applies.

### **802.31—Criteria to be satisfied at time of application**

#### **802.311**

Each of the following is satisfied:

- (a) the applicant is a member of the family unit of a person to whom paragraph 802.215(b) applies;
- (b) the applicant is a member of the family unit of a person who:
  - (i) has applied for a Child (Residence) (Class BT) visa; and
  - (ii) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 802.21;
- (c) the Minister has not decided to grant or refuse to grant the visa to that other person.

**802.312**

The sponsorship mentioned in clause 802.215 of the person who satisfies the primary criteria includes sponsorship of the applicant.

**802.32—Criteria to be satisfied at time of decision**

**802.321**

The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 802 visa.

**802.322**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004 and 4007; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**802.323**

If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**802.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**802.325**

The sponsorship mentioned in clause 802.312 has been approved by the Minister and is still in force.

**802.326**

The applicant satisfies public interest criteria 4020 and 4021.

**802.327**

Clauses 802.321 to 802.325 are not required to be satisfied if the application for a visa is supported by a letter of support from a State or Territory government welfare authority.

**802.328**

- (1) If the applicant's application for a visa is supported by a letter of support from a State or Territory government welfare authority and the applicant is an applicant to whom regulation 2.08 applies:
  - (a) the applicant must:
    - (i) be a member of the family unit of a person to whom paragraph 802.215 (a) applies; and
    - (ii) satisfy subclauses (2), (3), (4) and (5); and
    - (iii) satisfy public interest criteria 4018; and
  - (b) the Minister must be satisfied that:
    - (i) the grant of visa is in the public interest; and
    - (ii) the State or Territory government welfare authority supports the applicant's application for permanent residency in Australia.
- (2) The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):
  - (a) a Medical Officer of the Commonwealth;
  - (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
  - (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.
- (3) The applicant:
  - (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
  - (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
  - (c) is a person:
    - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
    - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
    - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
    - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- (4) A relevant medical practitioner:
  - (a) has considered:
    - (i) the results of any tests carried out for the purposes of the medical examination required under subclause (2); and
    - (ii) the radiological report (if any) required under subclause (3) in respect of the applicant; and
  - (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the

applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

- (5) If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

## **802.4—Circumstances applicable to grant**

### **802.411**

The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

## **802.5—When visa is in effect**

### **802.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

## **802.6—Conditions: Nil.**

## Subclass 804—Aged Parent

### 804.1—Interpretation

#### 804.111

In this Part:

**adult child**, in relation to an applicant, means a child of the applicant who has turned 18.

Note: **Aged parent, eligible New Zealand citizen** and **outstanding** are defined in regulation 1.03.

### 804.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### 804.21—Criteria to be satisfied at time of application

#### 804.211

- (1) If the applicant is a person to whom section 48 of the Act applies, the applicant:
  - (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
  - (b) since last applying for a substantive visa, has become an aged parent of:
    - (i) an Australian citizen; or
    - (ii) the holder of a permanent visa; or
    - (iii) an eligible New Zealand citizen.
- (2) The applicant is:
  - (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
  - (b) a person who:
    - (i) is not the holder of a substantive visa; and
    - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa.

#### 804.212

- (1) The applicant is:
  - (a) in the case of an applicant who is not the holder of a substituted Subclass 600 visa:
    - (i) the aged parent of a person (the **child**) who is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; and

- (ii) sponsored in accordance with subclause (2) or (3); or
- (b) in the case of an applicant who is the holder of a substituted Subclass 600 visa:
  - (i) the parent of a person (the *child*) who is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; and
  - (ii) sponsored in accordance with subclause (2) or (3).
- (2) If the child has turned 18, the applicant is sponsored by:
  - (a) the child; or
  - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
    - (i) has turned 18; and
    - (ii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
  - (a) the child's cohabiting spouse, if that spouse:
    - (i) has turned 18; and
    - (ii) is a settled Australian citizen, settled Australian permanent resident or settled eligible New Zealand citizen; or
  - (b) a person who:
    - (i) is a relative or guardian of the child; and
    - (ii) has turned 18; and
    - (iii) is a settled Australian citizen, settled Australian permanent resident, or settled eligible New Zealand citizen; or
  - (c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:
    - (i) is a relative or guardian of the child's spouse; and
    - (ii) has turned 18; and
    - (iii) is a settled Australian citizen, or settled Australian permanent resident, or settled eligible New Zealand citizen; or
  - (d) a community organisation.

### **804.213**

If the applicant is not the holder of a substantive visa, the applicant satisfies Schedule 3 criterion 3002.

### **804.214**

If the applicant is not the holder of a substituted Subclass 600 visa, the applicant satisfies the balance of family test.

Clause 804.221

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## **804.22—Criteria to be satisfied at time of decision**

### **804.221**

The applicant either:

- (a) is an aged parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen mentioned in paragraph 804.212(1)(a); or
- (b) if the applicant is the holder of a substituted Subclass 600 visa at the time of application—is the parent of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen mentioned in paragraph 804.212(1)(a).

### **804.222**

A sponsorship of the kind mentioned in clause 804.212 is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 804.212.

### **804.224**

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

### **804.225**

The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant was ...</b>	<b>the public interest criteria to be satisfied by the applicant are ...</b>
1	not the holder of a substituted Subclass 600 visa at the time of application	4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021
2	the holder of a substituted Subclass 600 visa at the time of application	4001, 4002, 4003, 4007, 4009, 4010, 4019, 4020 and 4021

### **804.226**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.



<b>Item</b>	<b>If the applicant ...</b>	<b>the public interest criteria to be satisfied by the member of the family unit are ...</b>
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and (b) if the person had turned 18 at the time of application—4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010 and 4020; and (b) if the person had turned 18 at the time of application—4019

- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 804 visa is a person who satisfies the public interest criteria mentioned in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant was ...</b>	<b>the public interest criteria to be satisfied by the member of the family unit are ...</b>
1	not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

### **804.227**

If a person (in this clause called the additional applicant):

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

### **804.228**

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

## **804.3—Secondary criteria**

**Note:** If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

Clause 804.311

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### **804.31—Criteria to be satisfied at time of application**

#### **804.311**

The applicant is a member of the family unit of a person who:

- (a) has applied for an Aged Parent (Residence) (Class BP) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 804.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

#### **804.312**

A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

### **804.32—Criteria to be satisfied at time of decision**

#### **804.321**

The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 804 visa.

#### **804.322**

The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

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<b>Item</b>	<b>If the applicant is a member of the family unit of a person who is mentioned in clause 804.321, and the person ...</b>	<b>the public interest criteria to be satisfied by the applicant are ...</b>
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019

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### **804.323**

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

### **804.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

### **804.325**

A sponsorship of the kind mentioned in clause 804.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
  - (b) includes sponsorship of the applicant;
- whether or not the sponsor was the sponsor at the time of application.

### **804.326**

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

## **804.4—Circumstances applicable to grant**

### **804.411**

The applicant must be in Australia, but not in immigration clearance when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

## **804.5—When visa is in effect**

### **804.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

## **804.6—Conditions: Nil.**

## **Subclass 808—Confirmatory (Residence)**

### **808.1—Interpretation**

Note: No interpretation provisions specific to this Part.

### **808.2—Primary criteria**

#### **808.21—Criteria to be satisfied at time of application**

##### **808.211A**

The applicant satisfies:

- (a) clauses 808.211 and 808.212; or
- (b) clause 808.213 (which applies in relation to some former holders of Norfolk Island immigration permits).

##### **808.211**

The applicant:

- (a) is the holder of a Resident Return (Temporary) (Class TP) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa at the time he or she was granted the Resident Return (Temporary) (Class TP) visa; or
- (b) is a person who is the holder of an Emergency (Temporary) (Class TI) visa and:
  - (i) either:
    - (A) satisfies the remaining criteria, within the meaning of Part 302; or
    - (B) is unable to satisfy those criteria, but is able to substantiate a claim to be an Australian permanent resident; or
  - (ii) is a member of the family unit of a person who:
    - (A) is the holder of a Subclass 302 (Emergency (Permanent Visa Applicant)) visa; and
    - (B) has satisfied the primary criteria; or
- (c) is the holder of a Border (Temporary) (Class TA) visa and satisfies the Minister that he or she would have satisfied the criteria for the grant of a Return (Residence) (Class BB) visa when he or she was granted the Border (Temporary) (Class TA) visa; or
- (d) is the holder of a Class 301 (Australian requirement) entry permit or visa granted under the Migration (1993) Regulations and has satisfied the criteria referred to in paragraph 301.321 (b) of Schedule 2 of those Regulations.

### **808.212**

In the case of an applicant who is the holder of a Subclass 302 visa, all members of the family unit of the applicant satisfy the public interest criteria applicable to them.

### **808.213**

- (1) This clause applies if paragraph 1111(2A)(b), (c) or (d) of Schedule 1 covers the application.

Note: Paragraphs 1111(2A)(b), (c) and (d) of Schedule 1 cover applications made on the basis of the former migration status under the *Immigration Act 1980* (Norfolk Island) of the applicant or a parent of the applicant.

- (2) The application must be made before 1 January 2024, unless the Minister is satisfied that there are compelling reasons for granting the visa.
- (3) During a period of, or periods that total, not less than 5 years in the period of 7 years immediately before the application is made (including any period, or part of a period, before 30 June 2016), the applicant meets the requirements of subclause (4).
- (4) The applicant meets the requirements of this subclause during any period or periods while:
- (a) the applicant is (or has been) lawfully present in Norfolk Island; or
  - (b) the applicant is (or has been) lawfully present in a place elsewhere in Australia, and:
    - (i) has not turned 25; and
    - (ii) is a dependent child of a person who is ordinarily resident in Norfolk Island; and
    - (iii) lives (or has lived) in that place for the purpose of study; and
    - (iv) while living there, meets (or met) the requirements mentioned in condition 8105 (which relates to students engaging in work).

Note 1: An applicant can meet the requirements of subclause (4) by a combination of periods to which either paragraph (4)(a) or (4)(b) applies, if the total duration of that combination of periods amounts to not less than 5 years.

Note 2: Condition 8105 is not imposed on the visa.

## **808.22—Criteria to be satisfied at time of decision**

### **808.221A**

The applicant satisfies:

- (a) clauses 808.221 and 808.222; or
- (b) clause 808.223 (which applies to some former holders of Norfolk Island immigration permits).

Clause 808.221

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**808.221**

In the case of an applicant who is a member of the family unit of a person referred to in subparagraph 808.211(b)(ii), the person referred to in that subparagraph holds a Confirmatory (Residence) (Class AK) visa.

**808.222**

The applicant satisfies public interest criterion 4021.

**808.223**

- (1) This clause applies if paragraph 1111(2A)(b), (c) or (d) of Schedule 1 covers the application.
- (2) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (3) The applicant:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4014, 4020 and 4021; and
  - (b) if the applicant has turned 18 at the time of the application—public interest criterion 4019.
- (4) If a person (the *additional applicant*):
  - (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18 at the time of the application; and
  - (c) made a combined application with the applicant;public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

**808.3—Secondary criteria**

**808.31—Criteria to be satisfied at time of application**

**808.311**

The following requirements are met:

- (a) the applicant was born in Australia on or after 1 July 2016;
- (b) the applicant is a dependent child of another applicant (the *parent applicant*);
- (c) paragraph 1111(2A)(b), (c) or (d) of Schedule 1 covers the parent's application;
- (d) the applicant made a combined application with the parent applicant.

## **808.32—Criteria to be satisfied at time of decision**

### **808.321**

- (1) The parent applicant mentioned in paragraph 808.311(b) is granted a Subclass 808 visa on the basis of satisfying clause 808.213.
- (2) The applicant satisfies public interest criteria 4007, 4010, 4012, 4014, 4017, 4018, 4020 and 4021.

## **808.4—Circumstances applicable to grant**

### **808.411A**

The applicant satisfies clause 808.411 or 808.412 (which applies to some former holders of Norfolk Island immigration permits).

### **808.411**

The applicant must be inside Australia, but not in immigration clearance when the visa is granted.

Note: The second instalment of the visa application charge (if any), must be paid before the visa can be granted.

### **808.412**

- (1) This clause applies if the applicant satisfies clause 808.213 or 808.311.
- (2) The applicant may be in or outside Australia when the visa is granted, but must not be in immigration clearance.

## **808.5—When visa is in effect**

### **808.511**

Visa granted on basis of satisfaction of paragraph 808.211(a) or (c): permanent visa.

### **808.512**

Visa granted on basis of satisfaction of paragraph 808.211(b) or (d): permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

### **808.513**

- (1) Visa granted on the basis of satisfaction of clause 808.213: permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

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**Subclass 808** Confirmatory (Residence)

Clause 808.513

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- (2) Visa granted on the basis of satisfaction of clause 808.311 in relation to a parent applicant mentioned in paragraph 808.311(b): permanent visa permitting the holder to travel to and enter Australia for the period permitted in relation to the parent applicant under subclause (1) of this clause.

**808.6—Conditions: Nil.**



## Subclass 820—Partner

### 820.1—Interpretation

#### 820.111

In this Part:

*court* means a Court of Australia or an external Territory.

*original sponsor* means the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application for a Subclass 300 (Prospective Marriage) visa as the person whom the applicant intended to marry after entry into Australia.

*sponsoring partner* means:

- (a) in subclauses 820.211(2) and (2B) and clause 820.221:
  - (i) for an applicant who is, or was, the holder of a Subclass 300 (Prospective Marriage) visa:
    - (A) the original sponsor for the applicant; or
    - (B) the subsequent sponsor for the applicant; or
  - (ii) for any other applicant—the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application as the spouse or de facto partner of the applicant; and
- (b) in any other provision of this Part:
  - (i) for an applicant who is, or was, the holder of a Subclass 300 (Prospective Marriage) visa—the original sponsor for the applicant; or
  - (ii) for any other applicant—the Australian citizen, Australian permanent resident or eligible New Zealand citizen who was specified in the application as the spouse or de facto partner of the applicant.

*subsequent sponsor* means a person who:

- (a) is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
- (b) is not the original sponsor for the applicant; and
- (c) is the spouse or de facto partner of the applicant.

Note: *eligible New Zealand citizen*, *SOFA forces civilian component member* and *SOFA forces member* are defined in regulation 1.03. For *de facto partner*, see section 5CB of the Act (also see regulation 1.09A). For *spouse*, see section 5F of the Act (also see regulation 1.15A).

### 820.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The dependent child of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child satisfies the secondary criteria.

## **820.21—Criteria to be satisfied at time of application**

### **820.211**

- (1) The applicant:
  - (a) is not the holder of a Subclass 771 (Transit) visa; and
  - (b) meets the requirements of subclause (2), (5), (6), (7), (8) or (9).
- (2) An applicant meets the requirements of this subclause if:
  - (a) the applicant is the spouse or de facto partner of a person who:
    - (i) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
    - (ii) is not prohibited by subclause (2B) from being a sponsoring partner; and
  - (c) the applicant is sponsored:
    - (i) if the applicant's spouse or de facto partner has turned 18—by the spouse or de facto partner; or
    - (ii) if the applicant's spouse has not turned 18—by a parent or guardian of the spouse who:
      - (A) has turned 18; and
      - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
  - (d) in the case of an applicant who is not the holder of a substantive visa—either:
    - (i) the applicant:
      - (A) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa holder who at the time of entry met the requirements of subclause (2A); and
      - (B) satisfies Schedule 3 criterion 3002; or
    - (ii) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.
- (2A) An applicant meets the requirements of this subclause if:
  - (a) the applicant is:
    - (i) a SOFA member; or
    - (ii) a SOFA forces civilian component member; or
  - (b) the applicant:
    - (i) is a dependent child of a person referred to in paragraph (a); and
    - (ii) holds a valid national passport and certificate that he or she is a dependant of a SOFA forces member or a SOFA forces civilian component member, as the case requires.
- (2B) The spouse or de facto partner of the applicant is prohibited from being a sponsoring partner if:

- (a) the spouse or de facto partner is a woman who was granted a Subclass 204 (Woman at Risk) visa within the 5 years immediately preceding the application; and
  - (b) on the date of grant of that visa:
    - (i) the applicant was a former spouse or former de facto partner of that woman, having been divorced or permanently separated from that woman; or
    - (ii) the applicant was the spouse or de facto partner of that woman, and that relationship had not been declared to Immigration.
- (5) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
  - (b) the applicant last entered Australia as the holder of a Subclass 300 (Prospective Marriage) visa; and
  - (c) the applicant has married the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and
  - (d) the applicant ceased to hold a substantive visa after marrying that Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
  - (e) the applicant is the spouse of the sponsoring partner; and
  - (f) the applicant is sponsored:
    - (i) if the applicant's spouse has turned 18—by the spouse; or
    - (ii) if the applicant's spouse has not turned 18—by a parent or guardian of the spouse who:
      - (A) has turned 18; and
      - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (6) An applicant meets the requirements of this subclause if the applicant:
- (a) is the holder of a Subclass 300 (Prospective Marriage) visa; and
  - (b) has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
  - (c) the applicant is sponsored:
    - (i) if the applicant's spouse has turned 18—by the spouse; or
    - (ii) if the applicant's spouse has not turned 18—by a parent or guardian of the spouse who:
      - (A) has turned 18; and
      - (B) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
  - (d) continues to be the spouse of the sponsoring partner.
- (7) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and

Clause 820.212

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- (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
  - (c) the sponsoring partner has died; and
  - (d) the applicant satisfies the Minister that the applicant would have continued to be the spouse of the sponsoring partner if the sponsoring partner had not died; and
  - (e) the applicant has developed close business, cultural or personal ties in Australia.
- (8) An applicant meets the requirements of this subclause if:
- (a) the applicant is the holder of a Subclass 300 (Prospective Marriage) visa; and
  - (b) the applicant has married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
  - (c) the relationship between the applicant and the sponsoring partner has ceased; and
  - (d) any 1 or more of the following:
    - (i) the applicant;
    - (ii) a member of the family unit of the applicant who has made a combined application with the applicant;
    - (iii) a dependent child of the sponsoring partner or of the applicant or of both of them;has suffered family violence committed by the sponsoring partner.
- (9) An applicant meets the requirements of this subclause if:
- (a) the applicant is not the holder of a substantive visa; and
  - (b) the applicant has been the holder of a Subclass 300 (Prospective Marriage) visa; and
  - (c) while that visa was valid, the applicant married the sponsoring partner under a marriage that is recognised as valid for the purposes of the Act; and
  - (d) the relationship between the applicant and the sponsoring partner has ceased; and
  - (e) any 1 or more of the following:
    - (i) the applicant;
    - (ii) a member of the family unit of the applicant who has made a combined application with the applicant;
    - (iii) a dependent child of the sponsoring partner or of the applicant or of both of them;has suffered family violence committed by the sponsoring partner.

Note: For special provisions relating to family violence, see Division 1.5.

**820.212**

If:

- (a) the applicant is the holder of:
    - (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
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- (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
- (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
- (b) the last substantive visa held by the applicant since entering Australia was:
  - (i) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
  - (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
  - (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
  - (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;the applicant has substantially complied with the conditions to which that visa was subject.

## **820.22—Criteria to be satisfied at time of decision**

### **820.221**

- (1) In the case of an applicant referred to in subclause 820.211(2), (5), (6), (7), (8) or (9), the applicant either:
  - (a) continues to meet the requirements of the applicable subclause; or
  - (b) meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if the applicant:
  - (a) would continue to meet the requirements of subclause 820.211(2), (5) or (6) except that the sponsoring partner has died; and
  - (b) satisfies the Minister that the applicant would have continued to be the spouse or de facto partner of the sponsoring partner if the sponsoring partner had not died; and
  - (c) has developed close business, cultural or personal ties in Australia.
- (3) An applicant meets the requirements of this subclause if:
  - (a) the applicant would continue to meet the requirements of subclause 820.211(2), (5) or (6) except that the relationship between the applicant and the sponsoring partner has ceased; and
  - (b) either or both of the following circumstances applies:
    - (i) either or both of the following:
      - (A) the applicant;
      - (B) a dependent child of the sponsoring partner or of the applicant or of both of them;has suffered family violence committed by the sponsoring partner;
    - (ii) the applicant:
      - (A) has custody or joint custody of, or access to; or
      - (B) has a residence order or contact order made under the *Family Law Act 1975* relating to;  
at least 1 child in respect of whom the sponsoring partner:
        - (C) has been granted joint custody or access by a court; or
        - (D) has a residence order or contact order made under the *Family Law Act 1975*; or

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(E) has an obligation under a child maintenance order made under the *Family Law Act 1975*, or any other formal maintenance obligation.

Note: For special provisions relating to family violence, *see* Division 1.5.

- (4) If paragraph 820.211(2)(c), (5)(f) or (6)(c) requires the applicant to be sponsored:
- (a) the sponsorship has been approved by the Minister and is still in force; and
  - (b) the sponsor has consented to the disclosure by the Department, to each applicant included in the sponsorship, of any conviction of the sponsor for a relevant offence (within the meaning of subregulation 1.20KC(2)).

Note 1: Regulations 1.20J, 1.20KA, 1.20KB and 1.20KC limit the Minister's discretion to approve sponsorships.

Note 2: The sponsor may be asked to consent to the disclosure mentioned in paragraph (b) on the approved form required to be completed by the sponsor in relation to the visa application.

- (5) For the purposes of subclause (4), the conviction of the sponsor for a relevant offence is to be disregarded if:
- (a) the conviction has been quashed or otherwise nullified; or
  - (b) both:
    - (i) the sponsor has been pardoned in relation to the conviction; and
    - (ii) the effect of that pardon is that the sponsor is taken never to have been convicted of the offence.

### **820.221A**

Unless the applicant:

- (a) is, or has been, the holder of a Subclass 300 (Prospective Marriage) visa; and
- (b) is seeking to remain permanently in Australia on the basis of the applicant's marriage to the person who was specified as the intended spouse in the application that resulted in the grant of that Subclass 300 (Prospective Marriage) visa;

the sponsorship of the applicant under clause 820.211 has been approved by the Minister.

Note: Regulations 1.20J, 1.20KA, 1.20KB and 1.20KC limit the Minister's discretion to approve sponsorships.

### **820.223**

- (1) The applicant:
- (a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
  - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Paragraph (1)(a) does not apply to an applicant referred to in subclause 820.211(5).
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### **820.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 820 visa is a person who:
  - (a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019; and
  - (c) satisfies public interest criterion 4020.
- (1A) Each member of the family unit of the applicant who is not an applicant for a Subclass 820 visa is a person who:
  - (a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- (2) Paragraphs (1)(a) and (1A) (a) do not apply to an applicant who:
  - (a) is a dependent child of an applicant referred to in subclause 820.211(5); and
  - (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.

### **820.225**

If a person (in this clause called the additional applicant):

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

### **820.226**

The applicant satisfies public interest criteria 4020 and 4021.

## **820.3—Secondary criteria**

Note: A dependent child, or a member of the family unit, of an applicant who satisfies the primary criteria is also eligible for the grant of the visa if the child or member of the family unit satisfies the secondary criteria.

## **820.31—Criteria to be satisfied at time of application**

### **820.311**

The applicant is:

- (a) either:
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- (i) a dependent child of a person who has applied for a Partner (Residence) (Class BS) visa; or
- (ii) a member of the family unit of a person who:
  - (A) is the holder of, or has been the holder of, a Subclass 300 (Prospective Marriage) visa; and
  - (B) has applied for a Partner (Residence) (Class BS) visa; and
- (b) the sponsorship (if any) in respect of that person includes the applicant; and
- (c) the Minister has not decided to grant or refuse to grant a visa to the person.

**820.312**

In the case of an applicant who is not the holder of a substantive visa—either:

- (a) the applicant:
  - (i) entered Australia as the holder of a Subclass 995 (Diplomatic) visa or as a special purpose visa holder who at the time of entry met the requirements of subclause 820.211(2A); and
  - (ii) satisfies Schedule 3 criterion 3002; or
- (b) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004, unless the Minister is satisfied that there are compelling reasons for not applying those criteria.

**820.313**

If:

- (a) the applicant is the holder of:
    - (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
    - (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
    - (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa; or
  - (b) the last substantive visa held by the applicant since entering Australia was:
    - (i) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
    - (ii) a Subclass 475 (Skilled—Regional Sponsored) visa; or
    - (iii) a Subclass 487 (Skilled—Regional Sponsored) visa; or
    - (iv) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;
- the applicant has substantially complied with the conditions to which that visa was subject.

**820.32—Criteria to be satisfied at time of decision**

**820.321**

In the case of an applicant referred to in clause 820.311, the applicant:

- (a) is a person who is dependent on, or a member of the family unit of, another person who having satisfied the primary criteria, is the holder of a Subclass 820 (Partner) visa (the *person who satisfies the primary criteria*); or
- (b) is a person to whom each of the following applies:



- (i) the person made a combined application with the person who satisfies the primary criteria;
- (ii) subsequent to the combined application being made, the person was found by the Minister not to be dependent on, or a member of the family unit of, the person who satisfies the primary criteria;
- (iii) subsequent to the person who satisfies the primary criteria being granted a Subclass 820 (Partner) visa and a Subclass 801 (Partner) visa—the Tribunal found the person to be dependent on, or a member of the family unit of, the person who satisfies the primary criteria.

### **820.323**

- (1) The applicant:
  - (a) subject to subclause (2)—satisfies public interest criteria 4001, 4002, 4003, 4004, 4007 and 4009; and
  - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Paragraph (1)(a) does not apply to an applicant referred to in subclause 820.311 who:
  - (a) is a dependent child of another applicant referred to in subclause 820.211(5); and
  - (b) entered Australia as the holder of a visa of the same class as the visa held by that other applicant.

### **820.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

### **820.325**

The sponsorship mentioned in paragraph 820.311(b) has been approved by the Minister and is still in force.

### **820.326**

The applicant satisfies public interest criteria 4020 and 4021.

## **820.4—Circumstances applicable to grant**

### **820.411**

The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

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**820.5—When visa is in effect**

**820.511**

Temporary visa permitting the holder to travel to and enter Australia until:

- (a) the holder is notified that his or her application for a Subclass 801 (Partner) visa has been decided; or
- (b) that application is withdrawn.

**820.6—Conditions: Nil.**

## **Subclass 835—Remaining Relative**

### **835.1—Interpretation**

#### **835.111**

In this Part:

*Australian relative* means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: *Australian relative*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03. *Remaining relative* is defined in regulation 1.15. *De facto partner* is defined in section 5CB of the Act (also see regulations 1.09A and 2.03A) and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

### **835.2—Primary criteria**

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

### **835.21—Criteria to be satisfied at time of application**

#### **835.211**

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa);  
or
- (b) a person who:
  - (i) is not the holder of a substantive visa; and
  - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
  - (iii) satisfies Schedule 3 criterion 3002.

#### **835.212**

The applicant is a remaining relative of an Australian relative.

#### **835.213**

The applicant is sponsored:

- (a) by the Australian relative, if the Australian relative:
  - (i) has turned 18; and
  - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (iii) is usually resident in Australia; or

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- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
  - (i) has turned 18; and
  - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (iii) is usually resident in Australia; and
  - (iv) cohabits with the Australian relative.

**835.22—Criteria to be satisfied at time of decision**

**835.221**

The applicant continues to satisfy the criterion in clause 835.212.

**835.222**

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**835.223**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**835.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 835 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 835 visa:
  - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

**835.225**

If a person (in this clause called the additional applicant):

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and

(c) made a combined application with the applicant—  
public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

#### **835.226**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

#### **835.227**

A sponsorship of the kind mentioned in clause 835.213, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 835.213.

### **835.3—Secondary criteria**

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

### **835.31—Criteria to be satisfied at time of application**

#### **835.311**

The applicant is a member of the family unit of a person who:

- (a) has applied for an Other Family (Residence) (Class BU) visa; and
- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 835.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

#### **835.312**

A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

### **835.32—Criteria to be satisfied at time of decision**

#### **835.321**

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 835 visa.

Clause 835.322

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**835.322**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**835.323**

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**835.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**835.325**

A sponsorship of the kind mentioned in clause 835.213 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
  - (b) includes sponsorship of the applicant;
- whether or not the sponsor was the sponsor at the time of application.

**835.4—Circumstances applicable to grant**

**835.411**

The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

**835.5—When visa is in effect**

**835.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

**835.6—Conditions: Nil.**

## **Subclass 836—Carer**

### **836.1—Interpretation**

#### **836.111**

In this Part:

*Australian relative* means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, and *carer* is defined in regulation 1.15AA.

### **836.2—Primary criteria**

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

### **836.21—Criteria to be satisfied at time of application**

#### **836.211**

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa);  
or
- (b) a person who:
  - (i) is not the holder of a substantive visa; and
  - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
  - (iii) satisfies Schedule 3 criterion 3002.

#### **836.212**

The applicant claims to be the carer of an Australian relative.

#### **836.213**

The applicant is sponsored

- (a) by the Australian relative, if the Australian relative:
  - (i) has turned 18; and
  - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (iii) is usually resident in Australia; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
  - (i) has turned 18; and

Clause 836.221

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- (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
- (iii) is usually resident in Australia; and
- (iv) cohabits with the Australian relative.

**836.22—Criteria to be satisfied at time of decision**

**836.221**

The applicant is a carer of a person referred to in clause 836.212.

**836.223**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**836.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 836 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 836 visa:
  - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

**836.225**

If a person (in this clause called the additional applicant):

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

**836.226**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.



### **836.227**

The sponsorship mentioned in clause 836.213 has been approved by the Minister and is still in force.

### **836.3—Secondary criteria**

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

### **836.31—Criteria to be satisfied at time of application**

#### **836.311**

The applicant is a member of the family unit of a person who:

- (a) has applied for an Other Family (Residence) (Class BU) visa; and
- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 836.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

#### **836.312**

The sponsorship mentioned in clause 836.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

### **836.32—Criteria to be satisfied at time of decision**

#### **836.321**

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 836 visa.

#### **836.322**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

#### **836.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

Clause 836.325

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**836.325**

The sponsorship mentioned in clause 836.312 has been approved by the Minister and is still in force.

**836.4—Circumstances applicable to grant**

**836.411**

The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted, unless the applicant is a person in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer.

**836.5—When visa is in effect**

**836.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

**836.6—Conditions: Nil.**

## **Subclass 837—Orphan Relative**

### **837.1—Interpretation**

#### **837.111**

In this Part:

*Australian relative* means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: *dependent child*, *eligible New Zealand citizen*, *relative* and *settled* are defined in regulation 1.03, *orphan relative* is defined in regulation 1.14, *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

### **837.2—Primary criteria**

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need only satisfy the secondary criteria.

### **837.21—Criteria to be satisfied at time of application**

#### **837.211**

If the applicant is a person to whom section 48 of the Act applies, the applicant:

- (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
- (b) since last applying for a substantive visa:
  - (i) has become an orphan relative of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; or
  - (ii) became an orphan relative of the person mentioned in subparagraph (i) and is no longer an orphan relative only because the applicant has been adopted by that person.

#### **837.212**

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa);  
or
- (b) a person who:
  - (i) is not the holder of a substantive visa; and
  - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
  - (iii) satisfies Schedule 3 criterion 3002.

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**837.213**

The applicant:

- (a) is an orphan relative of an Australian relative of the applicant; or
- (b) is not an orphan relative only because the applicant has been adopted by the Australian relative mentioned in paragraph (a).

**837.214**

The applicant is sponsored:

- (a) by the Australian relative, if the relative:
  - (i) has turned 18; and
  - (ii) is a settled Australian citizen, a settled Australian permanent resident, or a settled eligible New Zealand citizen; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
  - (i) has turned 18; and
  - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (iii) cohabits with the Australian relative.

**837.22—Criteria to be satisfied at time of decision**

**837.221**

The applicant:

- (a) continues to satisfy the criterion in clause 837.213; or
- (b) does not continue to satisfy that criterion only because the applicant has turned 18.

**837.222**

If the Minister has requested an assurance of support in relation to the applicant, the Minister is satisfied that the assurance has been accepted by the Secretary of Social Services.

**837.223**

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021.

**837.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 837 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020.

- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 837 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

### **837.225**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

### **837.226**

The sponsorship mentioned in clause 837.214 has been approved by the Minister and is still in force.

Note: Regulation 1.20KB limits the Minister's discretion to approve sponsorships.

## **837.3—Secondary criteria**

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

## **837.31—Criteria to be satisfied at time of application**

### **837.311**

The applicant is a member of the family unit of a person who:

- (a) has applied for a Child (Residence) (Class BT) visa; and
- (b) on the basis of the information provided in the application, appears to satisfy the criteria in Subdivision 837.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

### **837.312**

The sponsorship mentioned in clause 837.214 of the person who satisfies the primary criteria includes sponsorship of the applicant.

## **837.32—Criteria to be satisfied at time of decision**

### **837.321**

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 837 visa.

Clause 837.322

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**837.322**

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021.

**837.323**

If the Minister has requested an assurance of support in relation to the person who satisfies the primary criteria, the Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to that person, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**837.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**837.325**

The sponsorship mentioned in clause 837.312 has been approved by the Minister and is still in force.

**837.4—Circumstances applicable to grant**

**837.411**

The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

**837.5—When visa is in effect**

**837.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

**837.6—Conditions: Nil.**

## **Subclass 838—Aged Dependent Relative**

### **838.1—Interpretation**

#### **838.111**

In this Part:

*Australian relative* means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

Note: *aged dependent relative*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03.

### **838.2—Primary criteria**

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### **838.21—Criteria to be satisfied at time of application**

#### **838.211**

The applicant is:

- (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa);  
or
- (b) a person who:
  - (i) is not the holder of a substantive visa; and
  - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
  - (iii) satisfies Schedule 3 criterion 3002.

#### **838.212**

The applicant is an aged dependent relative of an Australian relative.

#### **838.213**

The applicant is sponsored:

- (a) by the Australian relative, if the Australian relative:
  - (i) has turned 18; and
  - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (iii) is usually resident in Australia; or
- (b) by the spouse or de facto partner of the Australian relative, if the spouse or de facto partner:
  - (i) has turned 18; and

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- (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled New Zealand citizen; and
- (iii) is usually resident in Australia; and
- (iv) cohabits with the Australian relative.

**838.22—Criteria to be satisfied at time of decision**

**838.221**

The applicant continues to satisfy the criterion in clause 838.212.

**838.222**

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**838.223**

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021.

**838.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 838 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 838 visa satisfies:
  - (a) public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

**838.225**

If a person (in this clause called the additional applicant):

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.



**838.226**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**838.227**

The sponsorship mentioned in clause 838.213 has been approved by the Minister and is still in force.

**838.3—Secondary criteria**

Note: If any member of a family unit satisfies the primary criteria, the other members of the family unit are eligible for the grant of the visa if they satisfy the secondary criteria and their applications are made before the Minister has decided to grant or refuse to grant the visa to the first person.

**838.31—Criteria to be satisfied at time of application**

**838.311**

The applicant is a member of the family unit of a person who:

- (a) has applied for an Other Family (Residence) (Class BU) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 838.21;

and the Minister has not decided to grant or refuse to grant the visa to that other person.

**838.312**

The sponsorship mentioned in clause 838.213 of the person who satisfies the primary criteria includes sponsorship of the applicant.

**838.32—Criteria to be satisfied at time of decision**

**838.321**

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 838 visa.

**838.322**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

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**838.323**

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**838.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**838.325**

The sponsorship mentioned in clause 838.312 has been approved by the Minister and is still in force.

**838.4—Circumstances applicable to grant**

**838.411**

The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

**838.5—When visa is in effect**

**838.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

**838.6—Conditions: Nil.**

## **Subclass 851—Resolution of Status**

### **851.1—Interpretation**

Note: There are no interpretation provisions specific to this Part.

### **851.2—Primary criteria**

Note: The primary criteria have to be satisfied by all applicants for Subclass 851 visas.

#### **851.21—[No criteria to be satisfied at time of application]**

#### **851.22—Criteria to be satisfied at time of decision**

##### **851.221**

The applicant has undergone a medical examination carried out by any of the following (a relevant medical practitioner):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

##### **851.222**

The applicant:

- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
- (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
- (c) is a person:
  - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
  - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
  - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
  - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

##### **851.223**

A relevant medical practitioner:

- (a) has considered:

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- (i) the results of any tests carried out for the purposes of the medical examination required under clause 851.221; and
  - (ii) the radiological report (if any) required under clause 851.222 in respect of the applicant; and
- (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

**851.224**

If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

**851.225**

The applicant:

- (a) satisfies public interest criteria 4001, 4002 and 4003A; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**851.226**

If the applicant was taken to have made an application because the criteria in item 4 of the table in subregulation 2.07AQ(3) were satisfied, the applicant and the other person mentioned in that item are members of the family unit.

**851.227**

If the criteria in item 3 of the table in paragraph 1127AA(3)(c) of Schedule 1 were satisfied, the applicant and the other person mentioned in that item are members of the same family unit.

**851.3—Secondary criteria**

Note: There are no secondary criteria for the grant of a Subclass 851 visa.

**851.4—Circumstances applicable to grant**

**851.411**

The applicant must be in Australia.

**851.5—When visa is in effect**

**851.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

**851.6—Conditions: Nil.**

## Subclass 852—Referred Stay (Permanent)

### 852.1—Interpretation

Note 1: Regulation 1.03 provides that *member of the immediate family* has the meaning set out in regulation 1.12AA.

Note 2: There are no interpretation provisions specific to this Part.

### 852.2—Primary criteria

Note: The primary criteria must be satisfied by at least one member of an immediate family. The other members of the immediate family who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### 852.21—Criteria to be satisfied at time of application

#### 852.211

The applicant is taken to have made a valid application for a Referred Stay (Permanent) (Class DH) visa under subregulation 2.07AK(2) in accordance with subregulation 2.07AK(3).

### 852.22—Criteria to be satisfied at time of decision

#### 852.222

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

#### 852.223

The requirements of paragraphs 2.07AK(3)(d), (e) and (f) continue to be met in relation to the applicant.

#### 852.224

Each member of the immediate family of the applicant who is an applicant for a Subclass 852 (Referred Stay (Permanent)) visa is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.

### 852.3—Secondary criteria

Note: These criteria must be satisfied by applicants who are members of the immediate family of a person who satisfies the primary criteria.

## **852.31—Criteria to be satisfied at time of application**

### **852.311**

The applicant is a member of the immediate family of a person who is taken, under subregulation 2.07AK(2), to have made a valid application for a Referred Stay (Permanent) (Class DH) visa in accordance with subregulation 2.07AK(3).

Note: See regulation 2.07AK for how an application for a Referred Stay (Permanent) (Class DH) visa is taken to have been validly made.

### **852.312**

The Minister has not decided to grant or refuse to grant a Subclass 852 (Referred Stay (Permanent)) visa to the person mentioned in clause 852.311.

## **852.32—Criteria to be satisfied at time of decision**

### **852.321**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4007; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

### **852.322**

The applicant continues to be a member of the immediate family of the person mentioned in clause 852.311.

### **852.323**

The person mentioned in clause 852.311 has been granted a Subclass 852 (Referred Stay (Permanent)) visa.

### **852.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

## **852.4—Circumstances applicable to grant**

### **852.411**

The applicant may be in or outside Australia when the visa is granted.

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## **852.5—When visa is in effect**

### **852.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

## **852.6—Conditions**

### **852.611**

If the applicant is outside Australia when the visa is granted, first entry must be made before a date specified for this clause by the Minister.



## **Subclass 858—Distinguished Talent**

### **858.1—Interpretation**

Note: There are no interpretation provisions specific to this Part.

### **858.2—Primary criteria**

Note: The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### **858.21—Criteria to be satisfied at time of application**

#### **858.211**

- (1) The applicant is not the holder of:
  - (a) a visa of one of the following classes or subclasses:
    - (i) Electronic Travel Authority (Class UD);
    - (ii) Maritime Crew (Temporary) (Class ZM);
    - (iii) Sponsored (Visitor) (Class UL);
    - (iv) Superyacht Crew (Temporary) (Class UW);
    - (v) Subclass 400 (Temporary Work (Short Stay Specialist));
    - (vi) Tourist (Class TR);
    - (vii) Visitor (Class TV);
    - (viii) Subclass 600 (Visitor); or
  - (b) a special purpose visa; or
  - (c) a Subclass 456 (Business (Short Stay)) visa.
- (2) If the applicant is not the holder of a substantive visa:
  - (a) the applicant satisfies Schedule 3 criteria 3001, 3003 and 3004; and
  - (b) the last substantive visa held by the applicant was not:
    - (i) a visa of one of the following classes or subclasses:
      - (A) Electronic Travel Authority (Class UD);
      - (BA) Maritime Crew (Temporary) (Class ZM);
      - (C) Sponsored (Visitor) (Class UL);
      - (DA) Superyacht Crew (Temporary) (Class UW);
      - (E) Subclass 400 (Temporary Work (Short Stay Specialist));
      - (F) Tourist (Class TR);
      - (G) Visitor (Class TV);
      - (H) Subclass 600 (Visitor); or
    - (ii) a special purpose visa; or
    - (iii) a Subclass 456 (Business (Short Stay)) visa.

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**858.212**

- (1) The applicant meets the requirements of subclause (2) or (4).
- (2) The applicant:
  - (a) has an internationally recognised record of exceptional and outstanding achievement in one of the following areas:
    - (i) a profession;
    - (ii) a sport;
    - (iii) the arts;
    - (iv) academia and research; and
  - (b) is still prominent in the area; and
  - (c) would be an asset to the Australian community; and
  - (d) would have no difficulty in obtaining employment, or in becoming established independently, in Australia in the area; and
  - (e) produces a completed approved form 1000; and
    - Note: An approved form 1000 requires the applicant's record of achievement in an area (as mentioned in paragraph (a)) to be attested to by:
      - (a) an Australian citizen; or
      - (b) an Australian permanent resident; or
      - (c) an eligible New Zealand citizen; or
      - (d) an Australian organisation; who has a national reputation in relation to the area.
  - (f) if the applicant has not turned 18, or is at least 55 years old, at the time of application—would be of exceptional benefit to the Australian community.
- (4) The applicant meets the requirements of this subclause if, in the opinion of the Minister, acting on the advice of:
  - (a) the Minister responsible for an intelligence or security agency within the meaning of the *Australian Security Intelligence Organisation Act 1979*; or
  - (b) the Director-General of Security;the applicant has provided specialised assistance to the Australian Government in matters of security.

**858.22—Criteria to be satisfied at time of decision**

**858.221**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**858.223**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 858 visa is a person who:
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- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 858 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

### **858.224**

If a person (in this clause called the additional applicant):

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant—
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

### **858.225**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

### **858.227**

Unless the applicant meets the requirements of subclause 858.212(4):

- (a) the applicant satisfies public interest criteria 4020; and
- (b) each member of the family unit of the applicant satisfies public interest criteria 4020.

## **858.3—Secondary criteria**

Note 1: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Note 2: Whether a person is a member of the family unit of an applicant for a Distinguished Talent (Resident) (Class BX) visa who has not turned 18 is worked out under subregulation 1.12(2) or (7). Only subregulation 1.12(2) is relevant if the applicant has turned 18.

## **858.31—Criteria to be satisfied at time of application**

### **858.311**

The applicant is a member of the family unit of a person who:

- (a) has applied for a Distinguished Talent (Residence) (Class BX) visa; and

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(b) on the basis of the information provided in his or her application, appears to satisfy the criteria in Subdivision 858.21;  
and the Minister has not decided to grant or refuse to grant the visa to that other person.

**858.312**

Any sponsorship or nomination given in respect of that other person includes the applicant.

**858.32—Criteria to be satisfied at time of decision**

**858.321**

- (1) The applicant meets the requirements of subclause (2), (3) or (4).
- (2) The applicant meets the requirement of this subclause if the applicant is a member of the family unit of a person (*the non-dependent holder*) who, having satisfied the primary criteria, is the holder of a Subclass 858 visa.
- (3) The applicant meets the requirements of this subclause if:
  - (a) the applicant is the spouse or de facto partner of the non-dependent holder; and
  - (b) the relationship between the non-dependent holder and the applicant has ceased; and
  - (c) one or more of the following:
    - (i) the applicant;
    - (ii) a member of the family unit of the applicant who has made a combined application with the non-dependent holder;
    - (iii) a dependent child of the applicant or of the non-dependent holder; has suffered family violence committed by the non-dependent holder.
- (4) The applicant meets the requirements of this subclause if:
  - (a) the applicant is a member of the family unit of the spouse or de facto partner of the non-dependent holder; and
  - (b) the spouse or de facto partner meets the requirements of subclause (3); and
  - (c) the applicant has made a combined application with the non-dependent holder; and
  - (d) the spouse or de facto partner has been granted a Subclass 858 visa.

Note: For special provisions relating to family violence, *see* Division 1.5.

**858.322**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4021; and

- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**858.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**858.326**

Unless the non-dependent holder mentioned in clause 858.321 in relation to the applicant met the requirements of subclause 858.212(4), the applicant satisfies public interest criteria 4020.

**858.4—Circumstances applicable to grant**

**858.411**

The applicant must be in Australia, but not in immigration clearance, when the visa is granted.

**858.5—When visa is in effect**

**858.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

**858.6—Conditions: Nil.**

## Subclass 864—Contributory Aged Parent

### 864.1—Interpretation

#### 864.111

In this Part, a reference to an applicant who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa means a person:

- (a) who, at the time of application, holds a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
- (b) who has held a Subclass 884 (Contributory Aged Parent (Temporary)) visa at any time in the 28 days immediately before making the application; or
- (c) in relation to whom the Minister is satisfied that compassionate and compelling circumstances exist for the person to be considered to have been the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application.

Note: *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, outstanding, parent visa* and *settled* are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5(1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

### 864.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### 864.21—Criteria to be satisfied at time of application

#### 864.211

- (1) The applicant is:
  - (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
  - (b) a person who:
    - (i) is not the holder of a substantive visa; and
    - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
    - (iii) satisfies criterion 3002.
- (2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 864 (Contributory Aged Parent) visa.

### 864.212

The applicant is:

- (a) the aged parent of a person (the *child*) who is:
  - (i) a settled Australian citizen; or
  - (ii) a settled Australian permanent resident; or
  - (iii) a settled eligible New Zealand citizen; or
- (ab) the holder of a substituted Subclass 600 visa, and is the parent of a person (the *child*) who is:
  - (i) a settled Australian citizen; or
  - (ii) a settled Australian permanent resident; or
  - (iii) a settled eligible New Zealand citizen; or
- (b) a person:
  - (i) who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
  - (ii) who is no longer the parent of the child because the child has died; and
  - (iii) who is not the parent of another child; or
- (c) a person:
  - (i) who is the holder of a substituted Subclass 600 visa; and
  - (ii) who was, before he or she was granted the substituted Subclass 600 visa, the holder of a Subclass 884 (Contributory) Aged Parent (Temporary) visa that ceased to be in effect; and
  - (iii) who is no longer the parent of the child because the child has died; and
  - (iv) who is not the parent of another child; or
- (d) a person:
  - (i) who is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
  - (ii) who, immediately before he or she was granted the Subclass 884 (Contributory Aged Parent (Temporary)) visa, was the holder of a substituted Subclass 600 visa.

### 864.213

- (1) The applicant is:
  - (a) sponsored in accordance with subclause (2) or (3); or
  - (b) taken, under subclause (4), to be sponsored in accordance with this clause; or
  - (c) satisfies the criterion in paragraph 864.212(c).
- (2) If the child has turned 18, the applicant is sponsored by:
  - (a) the child; or
  - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:

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- (i) has turned 18; and
  - (ii) is:
    - (A) a settled Australian citizen; or
    - (B) a settled Australian permanent resident; or
    - (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
- (a) the child's cohabiting spouse, if the spouse:
    - (i) has turned 18; and
    - (ii) is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; or
  - (b) a person who:
    - (i) is a relative or guardian of the child; and
    - (ii) has turned 18; and
    - (iii) is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; or
  - (c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:
    - (i) is a relative or guardian of the child's spouse; and
    - (ii) has turned 18; and
    - (iii) is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; or
  - (d) a community organisation.
- (4) The applicant is taken to be sponsored in accordance with this clause if:
- (a) the applicant:
    - (i) is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; or
    - (ii) both:
      - (A) was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa; and
      - (B) is the holder of a substituted Subclass 600 visa at the time of application; and
  - (b) the person who sponsored the applicant for the Subclass 884 (Contributory Aged Parent (Temporary)) visa dies before the Subclass 884 (Contributory Aged Parent (Temporary)) visa ceases to be in effect; and
  - (c) there is no other sponsor available who could meet the requirements set out in subclause (2) or (3).



### **864.214**

For an applicant who, at the time of application, is neither:

- (a) the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa;  
nor
  - (b) the holder of a substituted Subclass 600 visa;
- the applicant satisfies the balance of family test.

### **864.22—Criteria to be satisfied at time of decision**

#### **864.221**

- (1) If the applicant met the requirement in paragraph 864.212(ab) at the time of application, the applicant continues to be the parent of the child mentioned in that paragraph.
- (2) If the applicant met the requirement in paragraph 864.212(c) at the time of application, the applicant is not the parent of a child other than the child mentioned in subparagraph 864.212(c)(iii).
- (3) If the applicant met another requirement in clause 864.212 at the time of application, the applicant continues to meet the requirement.

#### **864.222**

For an applicant who satisfies the criterion in paragraph 864.213(1)(a) or (b), if a sponsorship of the kind mentioned in subclause 864.213(2) or (3) was in force in relation to the applicant at the time of application, a sponsorship of that kind, approved by the Minister, is in force in relation to:

- (a) the sponsor at the time of application; or
- (b) another sponsor who meets the requirements set out in subclause 864.213(2) or (3);

whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in subclause 864.213(2) or (3).

#### **864.222A**

If clause 864.222 does not apply:

- (a) the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application; and
- (b) a sponsor of the applicant who usually resides in Australia dies before a decision is made to grant, or to refuse to grant, the Subclass 864 (Contributory Aged Parent) visa; and
- (c) there is no other sponsor available who meets the requirements set out in subclause 864.213(2) or (3).

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**864.223**

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the criteria mentioned for the applicant in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant was ...</b>	<b>the criteria to be satisfied by the applicant are ...</b>
1	not the holder of a substituted Subclass 600 visa at the time of application	public interest criteria 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4019, 4020 and 4021
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4009, 4010, 4019, 4020 and 4021; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate

**864.224**

If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4020 and 4021; and
- (aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and
- (b) has undergone any health checks that the Minister considers appropriate.

**864.224A**

Each member of the family unit of the applicant who is an applicant for a Subclass 864 visa is a person who satisfies public interest criterion 4020.

**864.225**

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

**864.226**

The Minister is satisfied that an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**864.227**

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is an applicant for a Subclass 864 (Contributory Aged Parent) visa:

- (a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and

- (b) if the member of the family unit has previously been in Australia—must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant ...</b>	<b>the public interest criteria to be satisfied by the member of the family unit are ...</b>	<b>and if the member of the family unit has previously been in Australia, the special return criteria are ...</b>
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4009 and 4010; and (b) either: (i) 4007; or (ii) if the member of the family unit has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate; and (c) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010

### 864.228

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, each member of the family unit of the applicant who is not an applicant for a Subclass 864 (Contributory Aged Parent) visa must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant was ...</b>	<b>the public interest criteria to be satisfied by the member of the family unit are ...</b>
1	not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003 and 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

### 864.229

If a person (the additional applicant):

Clause 864.230

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- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

**864.230**

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

**864.3—Secondary criteria**

**864.31—Criteria to be satisfied at time of application**

**864.311**

Either:

- (a) the applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 864.21; or
- (b) each of the following applies:
  - (i) the applicant is a member of the family unit of a person (the *other applicant*) who:
    - (A) has applied for a Contributory Aged Parent (Residence) (Class DG) visa; and
    - (B) on the basis of the information provided in his or her application, appears to satisfy the primary criteria in Subdivision 864.21;
  - (ii) the Minister has not decided to grant or refuse to grant the visa to the other applicant.

**864.312**

One of the following applies:

- (a) the sponsorship mentioned in subclause 864.213(2) or (3) of the person who satisfies the primary criteria includes sponsorship of the applicant;
- (b) the person who satisfies the primary criteria, and the applicant, meet the requirements of subclause 864.213(4);
- (c) the applicant is a contributory parent newborn child who was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of the application and:
  - (i) the contributory parent newborn child's parent was granted a Subclass 864 (Contributory Aged Parent) visa on the basis of meeting paragraph 864.222(b); or

- (ii) the person who sponsored the contributory parent newborn child's parent for the Subclass 864 (Contributory Aged Parent) visa died after that visa was granted.

## **864.32—Criteria to be satisfied at time of decision**

### **864.321**

The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 864 (Contributory Aged Parent) visa.

### **864.322**

One of the following applies:

- (a) the sponsorship, mentioned in paragraph 864.222(a), that includes sponsorship of the applicant:
  - (i) has been approved by the Minister in relation to the applicant; and
  - (ii) is still in force in relation to the applicant;
- (b) the person who satisfied the primary criteria at the time of decision met the requirements of paragraph 864.222(b) at the time of decision, and the applicant meets those requirements at the time of decision;
- (c) the applicant is a contributory parent newborn child who meets the requirements of paragraph 864.312(c).

### **864.323**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

### **864.324**

If the applicant was not the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant is a member of the family unit of a person who is mentioned in clause 864.321, and the person was ...</b>	<b>the public interest criteria to be satisfied by the applicant are ...</b>
1	not the holder of a substituted Subclass 600 visa at the time of application	4004, 4005, 4009 and 4010

Clause 864.325

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Item	If the applicant is a member of the family unit of a person who is mentioned in clause 864.321, and the person was ...	the public interest criteria to be satisfied by the applicant are ...
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4009 and 4010; and (b) 4007 or, if the applicant has previously held a Subclass 884 visa, such health checks as the Minister considers appropriate

**864.325**

If the applicant was the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa at the time of application, the applicant has undergone any health checks that the Minister considers appropriate.

**864.326**

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

**864.327**

The Minister is satisfied that:

- (a) the applicant is included in the assurance of support given in relation to the person who satisfies the primary criteria, and that assurance has been accepted by the Secretary of Social Services; or
- (b) an assurance of support in relation to the applicant has been accepted by the Secretary of Social Services.

**864.328**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**864.329**

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

**864.4—Circumstances applicable to grant**

**864.411**

The applicant must be in Australia, but not in immigration clearance when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

**864.5—When visa is in effect**

**864.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

**864.6—Conditions: Nil.**

## Subclass 866—Protection

### 866.1—Interpretation

Note 1: For *member of the same family unit*, see subsection 5(1) of the Act.

Note 2: There are no interpretation provisions specific to this Part.

### 866.2—Primary criteria

Note: All applicants must satisfy the primary criteria.

### 866.21—Criteria to be satisfied at time of application

#### 866.211

- (1) Subclause (2) or (3) is satisfied.
- (2) The applicant:
  - (a) claims that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant; and
  - (b) makes specific claims as to why that criterion is satisfied.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

- (3) The applicant claims to be a member of the same family unit as a person:
  - (a) to whom subclause (2) applies; and
  - (b) who is an applicant for a Subclass 866 (Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.

### 866.22—Criteria to be satisfied at time of decision

#### 866.221

- (1) Subclause (2) or (3) is satisfied.
- (2) The Minister is satisfied that a criterion mentioned in paragraph 36(2)(a) or (aa) of the Act is satisfied in relation to the applicant.

Note: Paragraphs 36(2)(a) and (aa) of the Act set out criteria for the grant of protection visas to non-citizens in respect of whom Australia has protection obligations.

- (3) The Minister is satisfied that:
  - (a) the applicant is a member of the same family unit as an applicant mentioned in subclause (2); and
  - (b) the applicant mentioned in subclause (2) has been granted a Subclass 866 (Protection) visa.

Note: See paragraphs 36(2)(b) and (c) of the Act.



**866.223**

The applicant has undergone a medical examination carried out by any of the following (a *relevant medical practitioner*):

- (a) a Medical Officer of the Commonwealth;
- (b) a medical practitioner approved by the Minister for the purposes of this paragraph;
- (c) a medical practitioner employed by an organisation approved by the Minister for the purposes of this paragraph.

**866.224**

The applicant:

- (a) has undergone a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia; or
- (b) is under 11 years of age and is not a person in respect of whom a relevant medical practitioner has requested such an examination; or
- (c) is a person:
  - (i) who is confirmed by a relevant medical practitioner to be pregnant; and
  - (ii) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
  - (iii) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
  - (iv) who the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.

**866.224A**

A relevant medical practitioner:

- (a) has considered:
  - (i) the results of any tests carried out for the purposes of the medical examination required under clause 866.223; and
  - (ii) the radiological report (if any) required under clause 866.224 in respect of the applicant; and
- (b) if he or she is not a Medical Officer of the Commonwealth and considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, has referred any relevant results and reports to a Medical Officer of the Commonwealth.

**866.224B**

If a Medical Officer of the Commonwealth considers that the applicant has a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community, arrangements have

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Clause 866.225

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been made, on the advice of the Medical Officer of the Commonwealth, to place the applicant under the professional supervision of a health authority in a State or Territory to undergo any necessary treatment.

**866.225**

The applicant:

- (a) satisfies public interest criteria 4001 and 4003A; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**866.226**

The Minister is satisfied that the grant of the visa is in the national interest.

**866.227**

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant meets the requirements of this subclause if the applicant, or a member of the family unit of the applicant, is not a person who has been offered a temporary stay in Australia by the Australian Government for the purpose of an application for a Temporary Safe Haven (Class UJ) visa as provided for in regulation 2.07AC.
- (3) The applicant meets the requirements of this subclause if section 91K of the Act does not apply to the applicant's application because of a determination made by the Minister under subsection 91L(1) of the Act.

**866.230**

- (1) If the applicant is a child to whom subregulation 2.08(2) applies, subclause (2) is satisfied.
- (2) The Minister is satisfied that:
  - (a) the applicant is a member of the same family unit as an applicant to whom subclause 866.221(2) applies; and
  - (b) the applicant to whom subclause 866.221(2) applies has been granted a Subclass 866 (Protection) visa.

Note 1: Subregulation 2.08(2) applies, generally, to a child born to a non-citizen after the non-citizen has applied for a visa but before the application is decided.

Note 2: Subclause 866.221(2) applies if the Minister is satisfied that Australia has protection obligations in respect of the applicant as mentioned in paragraph 36(2)(a) or (aa) of the Act.

**866.231**

The applicant has not been made an offer of a permanent stay in Australia as described in item 3 or 4 of the table in subregulation 2.07AQ(3).

**866.232**

The applicant does not hold a Resolution of Status (Class CD) visa.

**866.3—Secondary criteria**

Note: All applicants must satisfy the primary criteria.

**866.4—Circumstances applicable to grant**

**866.411**

The applicant must be in Australia.

**866.5—When visa is in effect**

**866.511**

Permanent visa permitting the holder to travel to and enter Australia for a period of 5 years from the date of grant.

**866.6—Conditions**

**866.611**

Condition 8559.

## Subclass 884—Contributory Aged Parent (Temporary)

### 884.1—Interpretation

Note: *Australian permanent resident, aged parent, eligible New Zealand citizen, close relative, guardian, outstanding, parent visa* and *settled* are defined in regulation 1.03, *balance of family test* is defined in regulation 1.05, *parent* is defined in subsection 5(1) of the Act (also see regulation 1.14A), *de facto partner* is defined in section 5CB of the Act (also see regulation 1.09A), and *spouse* is defined in section 5F of the Act (also see regulation 1.15A).

### 884.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### 884.21—Criteria to be satisfied at time of application

#### 884.211

- (1) The applicant is:
  - (a) the holder of a substantive visa (other than a Subclass 771 (Transit) visa);  
or
  - (b) a person who:
    - (i) is not the holder of a substantive visa; and
    - (ii) immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa; and
    - (iii) satisfies criterion 3002.
- (2) Subclause (1) does not apply to an applicant if the applicant withdrew an application for a Subclass 804 (Aged Parent) visa at the time of making the application for the Subclass 884 (Contributory Aged Parent (Temporary)) visa.

#### 884.212

- (1) The applicant is:
  - (a) either:
    - (i) the aged parent of a person (the *child*) who is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; or
    - (ii) the holder of a substituted Subclass 600 visa and the parent of a person (the *child*) who is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; and
  - (b) sponsored in accordance with subclause (2) or (3).

- (2) If the child has turned 18, the applicant is sponsored by:
- (a) the child; or
  - (b) the child's cohabiting spouse or de facto partner, if the spouse or de facto partner:
    - (i) has turned 18; and
    - (ii) is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen.
- (3) If the child has not turned 18, the applicant is sponsored by:
- (a) the child's cohabiting spouse, if the spouse:
    - (i) has turned 18; and
    - (ii) is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; or
  - (b) a person who:
    - (i) is a relative or guardian of the child; and
    - (ii) has turned 18; and
    - (iii) is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; or
  - (c) if the child has a cohabiting spouse but the spouse has not turned 18—a person who:
    - (i) is a relative or guardian of the child's spouse; and
    - (ii) has turned 18; and
    - (iii) is:
      - (A) a settled Australian citizen; or
      - (B) a settled Australian permanent resident; or
      - (C) a settled eligible New Zealand citizen; or
  - (d) a community organisation.

### **884.213**

If the applicant is not the holder of a substituted Subclass 600 visa, the applicant satisfies the balance of family test.

### **884.22—Criteria to be satisfied at time of decision**

#### **884.221**

The applicant continues to satisfy the criterion in subclause 884.212(1).

**Schedule 2** Provisions with respect to the grant of Subclasses of visas  
**Subclass 884** Contributory Aged Parent (Temporary)

Clause 884.222

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**884.222**

A sponsorship of the kind mentioned in clause 884.212, approved by the Minister, is in force, whether or not the sponsor was the sponsor at the time of application.

Note: The applicant may seek the Minister's approval for a change of sponsor as long as the new sponsor meets the description in clause 884.212.

**884.224**

The applicant satisfies the public interest criteria mentioned for the applicant in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant ...</b>	<b>the public interest criteria to be satisfied by the applicant are ...</b>
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010, 4020 and 4021; and (b) if the applicant had turned 18 at the time of application—4019

**884.225**

If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5002 and 5010.

**884.226**

Each member of the family unit of the applicant who is an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa:

- (a) must satisfy the public interest criteria mentioned in the item in the table that relates to the applicant; and
- (b) if the member of the family unit has previously been in Australia—must satisfy the special return criteria mentioned in the item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant ...</b>	<b>the public interest criteria to be satisfied by the member of the family unit are ...</b>	<b>and if the member of the family unit has previously been in Australia, the special return criteria are ...</b>
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009, 4010 and 4020; and (b) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009, 4010 and 4020; and (b) if the applicant had turned 18 at the time of application—4019	5001, 5002 and 5010

### **884.227**

Each member of the family unit of the applicant who is not an applicant for a Subclass 884 (Contributory Aged Parent (Temporary)) visa must satisfy the public interest criteria mentioned in the item in the table that applies to the applicant.

<b>Item</b>	<b>If the applicant was ...</b>	<b>the public interest criteria to be satisfied by the member of the family unit are ...</b>
1	not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004; and (b) 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion
2	the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002 and 4003; and (b) 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment for that criterion

### **884.228**

If a person (the additional applicant):

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the additional applicant.

### **884.229**

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

### **884.3—Secondary criteria**

#### **884.31—Criteria to be satisfied at time of application**

##### **884.311**

Either:

- (a) the applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 884.21; or
- (b) each of the following applies:
  - (i) the applicant is a member of the family unit of a person (the *other applicant*) who:
    - (A) has applied for a Contributory Aged Parent (Temporary) (Class UU) visa; and
    - (B) on the basis of the information provided in his or her application, appears to satisfy the primary criteria in Subdivision 884.21;
  - (ii) the Minister has not decided to grant or refuse to grant the visa to the other applicant.

##### **884.312**

A sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:

- (a) is in force; and
- (b) includes sponsorship of the applicant.

#### **884.32—Criteria to be satisfied at time of decision**

##### **884.321**

Unless the applicant is a contributory parent newborn child, the applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 884 (Contributory Aged Parent (Temporary)) visa.

##### **884.322**

One of the following applies:

- (a) a sponsorship of the kind mentioned in clause 884.212 of the person who satisfies the primary criteria, approved by the Minister:
  - (i) is in force; and
  - (ii) includes sponsorship of the applicant;  
whether or not the sponsor was the sponsor at the time of application.
- (b) the applicant is a contributory parent newborn child who is sponsored by the person who sponsored the contributory parent newborn child's parent



- for a Subclass 884 (Contributory Aged Parent (Temporary)) visa or a Subclass 864 (Contributory Aged Parent) visa, and the contributory parent newborn child's sponsorship has been approved by the Minister;
- (c) the applicant is a contributory parent newborn child who is taken to be sponsored in accordance with clause 884.322A.

### 884.322A

A contributory parent newborn child is taken to be sponsored if:

- (a) the contributory parent newborn child's parent is taken to be sponsored in accordance with subclause 864.213(4); or
- (b) the following criteria apply in relation to the contributory parent newborn child's parent:
- (i) the parent is the holder of a Subclass 864 (Contributory Aged Parent) visa at the time of the contributory parent newborn child's application;
- (ii) the person who sponsored the parent for the Subclass 864 (Contributory Aged Parent) visa has died; or
- (c) the following criteria apply in relation to the contributory parent newborn child's parent:
- (i) at the time of the contributory parent newborn child's application, the parent is the holder of:
- (A) a Subclass 884 (Contributory Aged Parent (Temporary)) visa; or
- (B) a bridging visa, and the last substantive visa held by that parent was a Subclass 884 (Contributory Aged Parent (Temporary)) visa;
- (ii) the person who sponsored the parent for the Subclass 884 (Contributory Aged Parent (Temporary)) visa has died.

### 884.323

For an applicant who is not a contributory parent newborn child, the applicant satisfies the criteria mentioned for the applicant in an item in the table that relates to the applicant.

<b>Item</b>	<b>If the applicant is a member of the family unit of a person who is mentioned in clause 884.321, and the person ...</b>	<b>the public interest criteria to be satisfied by the applicant are ...</b>
1	was not the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application—4019
2	was the holder of a substituted Subclass 600 visa at the time of application	(a) 4001, 4002, 4003, 4007, 4009 and 4010; and (b) if the applicant had turned 18 at the time of application—4019

Clause 884.324

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**884.324**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**884.325**

If the applicant has previously made a valid application for another parent visa, that application is not outstanding.

**884.326**

If the applicant:

- (a) is not a contributory parent newborn child; and
- (b) has previously been in Australia;

the applicant satisfies special return criteria 5001, 5002 and 5010.

**884.327**

If the applicant is a contributory parent newborn child, the applicant has undergone any health checks that the Minister considers appropriate.

**884.328**

The applicant satisfies public interest criteria 4020 and 4021.

**884.4—Circumstances applicable to grant**

**884.411**

If the applicant is not a contributory parent newborn child, the applicant must be in Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

**884.412**

If the applicant is a contributory parent newborn child, the applicant may be in Australia or outside Australia when the visa is granted.

**884.5—When visa is in effect**

**884.511**

If the applicant is not a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia for 2 years from a date specified by the Minister for the purpose.

**884.512**

If the applicant is a contributory parent newborn child: temporary visa permitting the holder to travel to, enter and remain in Australia until a date specified by the Minister.

**884.6—Conditions: Nil.**

## Subclass 887—Skilled—Regional

### 887.1—Interpretation

#### 887.111

- (1) In this Part:

*specified regional area*, for an applicant who applies for a Subclass 887 visa, means a part of Australia identified in accordance with subclause (2) or (3).

- (2) If an applicant applies for the Subclass 887 visa on the basis of having held:
- (a) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
  - (b) a Skilled (Provisional) (Class VC) visa that is subject to condition 8549; or
  - (c) a Skilled (Provisional) (Class VF) visa that is subject to condition 8549; or
  - (d) a Subclass 475 (Skilled—Regional Sponsored) visa in relation to which:
    - (i) the application for the visa was made on or after 1 July 2010; and
    - (ii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; and
    - (iii) the visa was granted on the basis that the requirements of subclause 475.222(3) were satisfied; or
  - (e) a Subclass 487 (Skilled—Regional Sponsored) visa in relation to which:
    - (i) the application for the visa was made on or after 1 July 2010; and
    - (ii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; and
    - (iii) the visa was granted on the basis that the requirements of subclause 487.225(3) were satisfied; or
  - (f) a Skilled—Regional Sponsored (Provisional) (Class SP) visa that is subject to condition 8549;

a specified regional area is a part of Australia that, at the time at which a visa of that kind was first granted to the applicant, was specified by the Minister in an instrument in writing under item 6701 of Schedule 6 or was a designated area.

- (3) If an applicant applies for the Subclass 887 visa on the basis of having held:
- (a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
  - (b) a Skilled (Provisional) (Class VC) visa that is subject to condition 8539; or
  - (c) a Skilled (Provisional) (Class VF) visa that is subject to condition 8539; or
  - (d) a Subclass 475 (Skilled—Regional Sponsored) visa in relation to which:
    - (i) the application for the visa was made on or after 1 July 2010; and
    - (ii) in making the application, the requirements of subitem 1228(3A) of Schedule 1 were satisfied; and
    - (iii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; or
  - (e) a Subclass 487 (Skilled—Regional Sponsored) visa in relation to which:
    - (i) the application for the visa was made on or after 1 July 2010; and

- (ii) in making the application, the requirements of subitem 1229(3A) of Schedule 1 were satisfied; and
  - (iii) the visa was granted in the period starting on 1 July 2010 and ending on 31 December 2010; or
  - (f) a Skilled—Regional Sponsored (Provisional) (Class SP) visa that is subject to condition 8539;
- a specified regional area is a part of Australia that, at the time at which a visa of that kind was first granted to the applicant, was specified by the Minister in an instrument in writing under item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D.

## **887.2—Primary criteria**

Note: The primary criteria must be satisfied by at least 1 applicant. Other applicants who are members of the family unit of the applicant who satisfies the primary criteria need satisfy only the secondary criteria.

## **887.21—Criteria to be satisfied at time of application**

### **887.211**

The applicant meets the requirements set out in subitem 1136(7) of Schedule 1.

### **887.212**

The applicant must have lived in a specified regional area for a total of at least 2 years as the holder of 1 or more of the following visas:

- (a) a Skilled—Independent Regional (Provisional) (Class UX) visa;
- (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa;
- (c) a Subclass 475 (Skilled—Regional Sponsored) visa;
- (d) a Subclass 487 (Skilled—Regional Sponsored) visa;
- (e) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;
- (f) a Bridging A (Class WA) visa, or a Bridging B (Class WB) visa, that was granted on the basis of a valid application for:
  - (i) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
  - (ii) a Skilled (Provisional) (Class VC) visa; or
  - (iii) a Skilled—Regional Sponsored (Provisional) (Class SP) visa.

### **887.213**

The applicant must have worked full-time in a specified regional area for a total of at least 1 year as the holder of 1 or more of the visas mentioned in clause 887.212.

## **887.22—Criteria to be satisfied at time of decision**

### **887.221**

- (1) While the applicant was the holder of:
  - (a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
  - (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
  - (c) a Subclass 475 (Skilled—Regional Sponsored) visa; or
  - (d) a Subclass 487 (Skilled—Regional Sponsored) visa; or
  - (e) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;the applicant must have substantially complied with the conditions to which that visa is or was subject.
- (2) While a person included in the application (other than the applicant) was the holder of:
  - (a) a Skilled—Independent Regional (Provisional) (Class UX) visa; or
  - (b) a Skilled—Designated Area-sponsored (Provisional) (Class UZ) visa; or
  - (c) a Subclass 475 (Skilled—Regional Sponsored) visa; or
  - (d) a Subclass 487 (Skilled—Regional Sponsored) visa; or
  - (e) a Skilled—Regional Sponsored (Provisional) (Class SP) visa;that person must have substantially complied with the conditions to which that visa is or was subject.

### **887.223**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

### **887.224**

The applicant satisfies special return criteria 5001, 5002 and 5010.

### **887.225**

Each member of the family unit of the applicant, who is also an applicant for a Subclass 887 visa, is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010 and 4020; and
- (aa) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019; and
- (b) satisfies special return criteria 5001, 5002 and 5010.

### **887.226**

Each member of the family unit of the applicant, who is not an applicant for a Subclass 887 visa, is a person who:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4007, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

### **887.227**

If a person (the additional applicant):

- (a) is a member of the family unit of the applicant; and
- (b) is less than 18; and
- (c) made a combined application with the applicant;

public interest criteria 4015 and 4016 are satisfied for the additional applicant.

### **887.228**

Grant of the visa would not result in either:

- (a) the number of Subclass 887 visas granted in a financial year exceeding the maximum number of Subclass 887 visas, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year; or
- (b) the number of visas of particular classes (including Subclass 887) granted in a financial year exceeding the maximum number of visas of those classes, as determined by the Minister in an instrument in writing for this paragraph, that may be granted in that financial year.

## **887.3—Secondary criteria**

Note: These criteria must be satisfied by applicants who are members of the family unit of an applicant who satisfies the primary criteria.

### **887.31—Criteria to be satisfied at time of application**

#### **887.311**

The applicant is a member of the family unit of a person who satisfies the primary criteria in Subdivision 887.21 and made a combined application with that person.

### **887.32—Criteria to be satisfied at time of decision**

#### **887.321**

The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 887 visa.

Clause 887.322

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**887.322**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**887.323**

The applicant satisfies special return criteria 5001, 5002 and 5010.

**887.324**

If the applicant is less than 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

**887.4—Circumstances applicable to grant**

**887.411**

The applicant must be in Australia when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

**887.5—When visa is in effect**

**887.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

**887.6—Conditions: Nil.**



## **Subclass 888—Business Innovation and Investment (Permanent)**

### **888.1—Interpretation**

#### **888.111**

In this Part:

**designated investment** means an investment in a security that is specified for this Part by the Minister under regulation 5.19A.

Note 1: For **AUD**, **fiscal year**, **ownership interest** and **qualifying business**: see regulation 1.03.

Note 2: Regulation 1.03 also provides that **member of the family unit** has the meaning set out in regulation 1.12.

Note 3: **main business** is defined in regulation 1.11.

Note 4: For the beneficial ownership of an asset, eligible investment or ownership interest: see regulation 1.11A.

Note 5: **Complying investment** is defined in regulation 5.19B.

Note 6: **Complying significant investment** is defined in regulation 5.19C.

Note 7: **Complying premium investment** is defined in regulation 5.19D.

### **888.2—Primary criteria**

Note: The primary criteria for the grant of a Subclass 888 visa include criteria set out in streams.

If an applicant applies for a Subclass 888 visa in the Business Innovation stream, the criteria in Subdivisions 888.21 and 888.22 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 888 visa in the Investor stream, the criteria in Subdivisions 888.21 and 888.23 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 888 visa in the Significant Investor stream, the criteria in Subdivisions 888.21 and 888.24 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 888 visa in the Premium Investor stream, the criteria in Subdivisions 888.21 and 888.25 are the primary criteria for the grant of the visa.

If an applicant applies for a Subclass 888 visa in the Entrepreneur stream, the criteria in Subdivisions 888.21 and 888.26 are the primary criteria for the grant of the visa.

The primary criteria must be satisfied by at least one member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

All criteria must be satisfied at the time a decision is made on the application.

#### **888.21—Common criteria**

Note: These criteria are for all applicants seeking to satisfy the primary criteria for a Subclass 888 visa.

Clause 888.211

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**888.211**

The applicant, and the applicant's spouse or de facto partner, do not have a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

**888.212**

The nominating State or Territory government agency or the CEO of Austrade has not withdrawn the nomination.

**888.213**

The applicant genuinely has a realistic commitment to maintain business or investment activities in Australia.

**888.214**

The applicant, and the applicant's spouse or de facto partner, have a satisfactory record of compliance with the laws of the Commonwealth, and of each State or Territory in which the applicant operates a business and employs employees in the business, relating to the applicant's business.

Note: Those laws include laws relating to taxation, superannuation and workplace relations.

**888.215**

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4020 and 4021.
- (2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) Each member of the family unit of the applicant who is an applicant for a Subclass 888 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010 and 4020.
- (4) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 888 visa; and
  - (b) had turned 18 at the time of application;satisfies public interest criterion 4019.
- (5) Each member of the family unit of the applicant who:
  - (a) is an applicant for a Subclass 888 visa; and
  - (b) has not turned 18;satisfies public interest criteria 4015 and 4016.
- (6) Each member of the family unit of the applicant who is not an applicant for a Subclass 888 visa:
  - (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and

- (b) satisfies public interest criterion 4007 unless it would be unreasonable to require the member to undergo assessment in relation to the criterion.

### **888.216**

- (1) The applicant satisfies special return criteria 5001, 5002 and 5010.
- (2) Each member of the family unit of the applicant who is an applicant for a Subclass 888 visa satisfies special return criteria 5001, 5002 and 5010.

### **888.22—Criteria for Business Innovation stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Business Innovation stream.

### **888.221**

The applicant has been in Australia, as the holder of one or more visas mentioned in the table in subitem 1104BA(4) of Schedule 1, for a total period of at least one year in the 2 years immediately before the application was made.

### **888.222**

- (1) The applicant (the current applicant):
  - (a) had an ownership interest in at least one actively operating main business in Australia during the 2 years immediately before the application was made; and
  - (b) continues to have the ownership interest in the actively operating main business.
- (2) If the current applicant acquired the ownership interest from another person who was an applicant for, or held, a Business Skills (Permanent) (Class EC) visa or a Business Skills (Residence) (Class DF) visa at the time of the acquisition, the current applicant must have held the ownership interest with that person as a joint interest for at least one year before the current applicant's application was made.

### **888.223**

An Australian Business Number has been obtained for each business mentioned in subclause 888.222(1).

### **888.224**

Each Business Activity Statement required by the Commissioner of Taxation during the 2 years immediately before the application was made has been submitted to the Commissioner and has been included in the application.

Clause 888.225

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**888.225**

- (1) If the nominating State or Territory government agency has not determined that there are exceptional circumstances:
  - (a) the requirements in at least 2 of subclauses (2) to (4) are met; and
  - (b) the requirement in subclause (5) is met.
- (2) The assets owned by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
  - (a) had a net value of at least AUD200 000 throughout the period of 12 months immediately before the application was made; and
  - (b) continue to have a net value of at least AUD200 000; and
  - (c) were lawfully acquired.
- (3) In the period of 12 months immediately before the application was made:
  - (a) the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together provided employment in Australia to 2 or more employees for a total number of hours that was at least the total number of hours that would have been worked by 2 full-time employees; and
  - (b) each employee whose employment is used to work out that total number of hours:
    - (i) was not the applicant or a member of the family unit of the applicant during that period; and
    - (ii) was an Australian citizen, an Australian permanent resident or the holder of a valid New Zealand passport during that period.
- (4) The business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
  - (a) had a net value of at least AUD600 000 in the period of 12 months ending immediately before the application was made; and
  - (b) continue to have a net value of at least AUD600 000; and
  - (c) were lawfully acquired.
- (5) The main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, had an annual turnover of at least AUD300 000 in the 12 months immediately before the application was made.

**888.226**

- (1) Subclause (2) or (3) applies.
  - (2) All of the following apply:
    - (a) the nominating State or Territory government agency has determined that there are exceptional circumstances;
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- (b) the requirements set out in at least 2 of subclauses 888.225(2) to (4) have been met;
  - (c) the applicant:
    - (i) resides in an area specified by the Minister in an instrument in writing for this subparagraph; and
    - (ii) operates the applicant's main business or businesses in Australia in the area.
- (3) Both of the following apply:
- (a) the nominating State or Territory government agency has determined that there are exceptional circumstances;
  - (b) the requirement set out in subclause 888.225(5) has been met.

### **888.23—Criteria for Investor stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Investor stream.

#### **888.231**

The applicant has been in Australia, as the holder of a visa mentioned in the table in subitem 1104BA(5) of Schedule 1, for a total period of at least 2 years in the 4 years immediately before the application was made.

#### **888.232**

The designated investment made by the applicant for the purpose of satisfying a criterion for the grant of a Subclass 188 (Business Innovation and Investment (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for:

- (a) if the Subclass 188 (Business Innovation and Investment (Provisional)) visa was granted on the basis of an application made before 1 July 2015—at least 3 years and 11 months; or
- (b) if the Subclass 188 (Business Innovation and Investment (Provisional)) visa was granted on the basis of an application made on or after 1 July 2015—at least 4 years.

### **888.24—Criteria for Significant Investor stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Significant Investor stream.

#### **888.241**

- (1) At the time of application:
- (a) the applicant has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream for a continuous period of 4 years; or
  - (b) the applicant has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream and one or more
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Clause 888.241

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Subclass 188 (Business Innovation and Investment (Provisional)) visas in the Significant Investor Extension stream for a continuous period of 4 years; or

- (c) the applicant:
- (i) has held, for a continuous period of 3 years and 11 months, a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor stream applied for before 1 July 2015; and
  - (ii) has not held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Significant Investor Extension stream granted on the basis of the visa mentioned in subparagraph (i).

(2) The applicant meets the requirements of subclause (2A) or (2B).

(2A) Both of the following apply:

- (a) the most recent Subclass 188 visa in the Significant Investor stream held by the applicant (which may be the visa currently held by the applicant) was granted on the basis of an application made before 1 July 2015;
- (b) the applicant has held, for the whole of the period during which the applicant has held the visas or visa mentioned in subclause (1), a complying investment within the meaning of regulation 5.19B as in force at the time the application mentioned in paragraph (a) was made.

(2B) Both of the following apply:

- (a) the most recent Subclass 188 visa in the Significant Investor stream held by the applicant (which may be the visa currently held by the applicant) was granted on the basis of an application made on or after 1 July 2015;
- (b) the applicant has held, for the whole of the period during which the applicant has held the visas or visa mentioned in subclause (1), a complying significant investment within the meaning of regulation 5.19C as in force at the time the application mentioned in paragraph (a) was made.

(3) For any part of the investment mentioned in subclause (2A) or (2B) for the applicant that is, or was, a direct investment in an Australian proprietary company:

- (a) if the period of the direct investment was less than 2 years, the company was a qualifying business for the whole period; or
- (b) if the period of the direct investment was 2 years or more, the company was a qualifying business for at least 2 years; or
- (c) if the company has been unable to operate as a qualifying business, the Minister is satisfied that the applicant made a genuine attempt to operate the business as a qualifying business.

(4) The applicant has given the Minister:

- (a) if subclause (2A) applies to the applicant—a completed copy of approved form 1413 for each investment in a managed fund on which the investment mentioned in that subclause is based; or

- (b) if subclause (2B) applies to the applicant—evidence that the applicant holds an investment as required for that subclause.

Note: Approved form 1413 includes a declaration that the investments made by a managed fund for the benefit of clients are limited to one or more of the purposes specified by the Minister for paragraph 5.19B(2)(c).

### **888.242**

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) The applicant has been in Australia for at least the number of days worked out by adding the results of paragraphs (a) and (b):
  - (a) 40 multiplied by the number of complete years in the period in which the applicant has held a Subclass 188 visa in the Significant Investor stream; and
  - (b) 40 multiplied by the number of years (if any) (treating a part of a year as 1 year) in the period in which the applicant has held a Subclass 188 visa in the Significant Investor Extension stream.
- (3) The applicant's spouse or de facto partner has been in Australia on a Subclass 188 visa, granted on the basis that the applicant held a Subclass 188 visa in the Significant Investor stream or the Significant Investor Extension stream, for at least the number of days worked out by adding the results of paragraphs (a) and (b):
  - (a) 180 multiplied by the number of complete years in the period in which the applicant held a Subclass 188 visa in the Significant Investor stream; and
  - (b) 180 multiplied by the number of years (if any) (treating a part of a year as 1 year) in which the applicant held a Subclass 188 visa in the Significant Investor Extension stream.

Note: It is not necessary for the applicant to have been in Australia for 40 days in each year in the period or the applicant's spouse or de facto partner to have been in Australia for 180 days in each year in the period.

### **888.25—Criteria for Premium Investor stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Premium Investor stream.

### **888.251**

- (1) At the time of application the applicant has held a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Premium Investor stream for a continuous period of at least 12 months.
- (2) For the whole of the period during which the applicant has held the visa mentioned in subclause (1), the applicant has held a complying premium investment (within the meaning of regulation 5.19D as in force at the time the application for that visa was made) except any part of the investment that is a philanthropic contribution.

Clause 888.261

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- (3) For any part of the complying premium investment (except any part of the investment that is a philanthropic contribution) that is, or was, a direct investment in an Australian proprietary company:
  - (a) the company was a qualifying business for the whole period; or
  - (b) if the company has been unable to operate as a qualifying business, the Minister is satisfied that the applicant made a genuine attempt to operate the business as a qualifying business.
- (4) The applicant has given the Minister evidence that the investment complies with the requirements set out in regulation 5.19D as in force at the time of application.

### **888.26—Criteria for Entrepreneur stream**

Note: These criteria are only for applicants seeking to satisfy the primary criteria for a Subclass 888 visa in the Entrepreneur stream.

#### **888.261**

- (1) At the time of application the applicant:
  - (a) holds a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream and has done so for a continuous period of at least 4 years; and
  - (b) has resided in Australia for at least 2 years of the 4 years.
- (2) The applicant has demonstrated overall a successful record of undertaking, whether alone or by participating in a business, activities of an entrepreneurial nature (disregarding activities specified in an instrument made under subregulation 5.19E(6) for the purposes of paragraph 5.19E(2)(b)):
  - (a) in Australia; and
  - (b) while holding a Subclass 188 (Business Innovation and Investment (Provisional)) visa in the Entrepreneur stream.
- (3) In determining the success of the applicant's record for the purposes of subclause (2), the Minister must have regard to the following (without limitation):
  - (a) the number of Australian citizens and Australian permanent residents that are employed in Australia in relation to the activities;
  - (b) the level and nature of ongoing funding of, or investment in, the activities;
  - (c) the annual turnover of businesses related to the activities.

### **888.3—Secondary criteria**

Note: These criteria are for applicants who are members of the family unit of a person who satisfies the primary criteria. All criteria must be satisfied at the time a decision is made on the application.



## **888.31—Criteria**

### **888.311**

The applicant:

- (a) is a member of the family unit of a person who holds a Subclass 888 visa granted on the basis of satisfying the primary criteria for the grant of the visa; and
- (b) made a combined application with that person.

### **888.312**

- (1) The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4010, 4020 and 4021.
- (2) If the applicant had turned 18 at the time of application, the applicant satisfies public interest criterion 4019.
- (3) If the applicant has not turned 18, the applicant satisfies public interest criteria 4017 and 4018.

### **888.313**

The applicant satisfies special return criteria 5001, 5002 and 5010.

## **888.4—Circumstances applicable to grant**

### **888.411**

The applicant may be in or outside Australia when the visa is granted, but not in immigration clearance.

Note: The second instalment of visa application charge must be paid before the visa can be granted.

## **888.5—When visa is in effect**

### **888.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

## **888.6—Conditions**

### **888.611**

If the applicant is outside Australia when the visa is granted:

- (a) first entry must be made before the date specified by the Minister; and

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Clause 888.611

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- (b) if the applicant satisfies the secondary criteria for the grant of the visa, condition 8515 may be imposed.

## Subclass 890—Business Owner

### 890.1—Interpretation

- Note 1: *AUD, ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.
- Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.
- Note 3: Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12(2) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.
- Note 4: There are no interpretation provisions specific to this Part.

### 890.2—Primary criteria

- Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### 890.21—Criteria to be satisfied at time of application

#### 890.211

- (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main businesses in Australia for at least 2 years immediately before the application is made.
- (2) For each business to which subclause (1) applies:
  - (a) an Australian Business Number has been obtained; and
  - (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the ATO and have been included in the application.

#### 890.212

The assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:

- (a) have a net value of at least AUD100 000; and
- (b) had a net value of at least AUD100 000 throughout the period of 12 months ending immediately before the application is made; and
- (c) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.

Clause 890.213

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**890.213**

In the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD300 000.

**890.214**

In the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:

- (a) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 2 full-time employees over that period of 12 months; and
- (b) provided those hours of employment to an employee, or employees, who:
  - (i) were not the applicant or a member of the family unit of the applicant; and
  - (ii) were Australian citizens, Australian permanent residents or New Zealand passport holders.

**890.215**

The net value of the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, is, and has been throughout the 12 months immediately before the application is made, at least AUD250 000.

**890.216**

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

**890.217**

The applicant has been in Australia as the holder of 1 of the visas mentioned in paragraph 1104B(3)(d) of Schedule 1 for a total of at least 1 year in the 2 years immediately before the application is made.

**890.22—Criteria to be satisfied at time of decision**

**890.221**

The applicant continues to satisfy the criteria in clauses 890.211, 890.215 and 890.216.

### **890.222**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

### **890.223**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 890 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4020; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 890 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of visa of a subclass included in Business Skills (Provisional) (Class UR) satisfies public interest criterion 4007.

### **890.224**

If a person:

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

## **890.3—Secondary criteria**

Note: The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

### **890.31—Criteria to be satisfied at time of application**

#### **890.311**

The applicant is a member of the family unit of, and has made a combined application with, a person who satisfies the primary criteria in Subdivision 890.21.

## **890.32—Criteria to be satisfied at time of decision**

### **890.321**

The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 890 visa.

### **890.322**

- (1) The applicant:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
  - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a visa of a subclass included in Business Skills (Provisional) (Class UR), the applicant satisfies public interest criterion 4007.

### **890.323**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

## **890.4—Circumstances applicable to grant**

### **890.411**

- (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

## **890.5—When visa is in effect**

### **890.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

## **890.6—Conditions**

### **890.611**

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

## Subclass 891—Investor

### 891.1—Interpretation

#### 891.111

In this Part:

**designated investment** means an investment in a security specified by the Minister under regulation 5.19A for this Part.

Note 1: *AUD, fiscal year, ownership interest* and *qualifying business* are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3: Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12(2) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

### 891.2—Primary criteria

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### 891.21—Criteria to be satisfied at time of application

#### 891.211

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

#### 891.212

The applicant has been in Australia as the holder of a Subclass 162 (Investor (Provisional)) visa for a total of at least 2 years in the 4 years immediately before the application is made.

#### 891.213

The applicant genuinely has a realistic commitment, after the grant of a Subclass 891 visa, to continue to maintain business or investment activity in Australia.

### 891.22—Criteria to be satisfied at time of decision

#### 891.221

The applicant continues to satisfy the criteria in clauses 891.211 and 891.213.



### **891.222**

The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 162 (Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.

### **891.223**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

### **891.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 891 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4020; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 891 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 162 (Investor (Provisional)) visa satisfies public interest criterion 4007.

### **891.225**

If a person:

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

## **891.3—Secondary criteria**

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

Clause 891.311

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### **891.31—Criteria to be satisfied at time of application**

#### **891.311**

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 891.21.

### **891.32—Criteria to be satisfied at time of decision**

#### **891.321**

The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 891 visa.

#### **891.322**

- (1) The applicant:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
  - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a Subclass 162 (Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.

#### **891.323**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

### **891.4—Circumstances applicable to grant**

#### **891.411**

- (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

## **891.5—When visa is in effect**

### **891.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

## **891.6—Conditions**

### **891.611**

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

## Subclass 892—State/Territory Sponsored Business Owner

### 892.1—Interpretation

- Note 1: *appropriate regional authority*, *AUD*, *ownership interest* and *qualifying business* are defined in regulation 1.03 and *main business* is defined in regulation 1.11.
- Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.
- Note 3: Regulation 1.03 provides that *member of the family unit* has the meaning set out in regulation 1.12. Subregulations 1.12(2) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.
- Note 4: There are no interpretation provisions specific to this Part.

### 892.2—Primary criteria

- Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### 892.21—Criteria to be satisfied at time of application

#### 892.211

- (1) The applicant has had, and continues to have, an ownership interest in 1 or more actively operating main businesses in Australia for at least 2 years immediately before the application is made.
- (2) For each business to which subclause (1) applies:
  - (a) an Australian Business Number has been obtained; and
  - (b) all Business Activity Statements required by the Australian Taxation Office (the *ATO*) for the period mentioned in subclause (1) have been submitted to the ATO and have been included in the application.

#### 892.212

Unless the appropriate regional authority has determined that there are exceptional circumstances, the applicant meets at least 2 of the following requirements:

- (a) in the period of 12 months ending immediately before the application is made, the main business in Australia, or main businesses in Australia, of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
  - (i) provided an employee, or employees, with a total number of hours of employment at least equivalent to the total number of hours that would have been worked by 1 full-time employee over that period of 12 months; and
  - (ii) provided those hours of employment to an employee, or employees, who:

- (A) were not the applicant or a member of the family unit of the applicant; and
  - (B) were Australian citizens, Australian permanent residents or New Zealand passport holders;
- (b) the business and personal assets in Australia of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together:
- (i) have a net value of at least AUD250 000; and
  - (ii) had a net value of at least AUD250 000 throughout the period of 12 months ending immediately before the application is made; and
  - (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together;
- (c) the assets owned by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, in the main business or main businesses in Australia:
- (i) have a net value of at least AUD75 000; and
  - (ii) had a net value of at least AUD75 000 throughout the period of 12 months ending immediately before the application is made; and
  - (iii) have been lawfully acquired by the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together.

### **892.213**

- (1) The applicant meets the requirements of subclause (2) or (3).
- (2) An applicant meets the requirements of this subclause if, in the 12 months immediately before the application is made, the applicant's main business in Australia, or main businesses in Australia together, had an annual turnover of at least AUD200 000.
- (3) An applicant meets the requirements of this subclause if:
  - (a) the applicant meets at least 2 of the requirements set out in paragraphs 892.212(a), (b) and (c); and
  - (b) the applicant resides in, and operates the applicant's main business or businesses in Australia in, an area specified in an instrument in writing made by the Minister for this paragraph; and
  - (c) the appropriate regional authority has determined that there are exceptional circumstances for this subclause.

### **892.214**

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

Clause 892.215

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**892.215**

If the applicant is not the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa, one or more of the following circumstances has existed for a total of at least 1 year in the period of 2 years ending immediately before the application is made:

- (a) the applicant has been in Australia as the holder of one of the visas mentioned in paragraph 1104B(3)(f) of Schedule 1;
- (b) the applicant has been in Australia as the holder of a Bridging A (Class WA) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223(7A) of Schedule 2;
- (c) the applicant has been in Australia as the holder of a Bridging B (Class WB) visa granted on the basis of a valid application for a Temporary Business Entry (Class UC) visa, and a Subclass 457 visa was subsequently granted on the basis of the applicant, or the spouse or de facto partner of the applicant, or former spouse or former de facto partner of the applicant, satisfying subclause 457.223(7A) of Schedule 2.

**892.216**

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa;

the applicant must have lived for at least 2 years in total, as the holder of 1 or more:

- (c) Skilled—Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled—Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

**892.216A**

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa;

the applicant must have worked full time for at least 12 months in total, as the holder of 1 or more:

- (c) Skilled—Independent Regional (Provisional) (Class UX) visas; and
- (d) Bridging A (Class WA) visas, or Bridging B (Class WB) visas, granted because the applicant made a valid application for a Skilled—Independent Regional (Provisional) (Class UX) visa;

in a part of Australia that, at the time when a visa mentioned in paragraph (c) or a bridging visa mentioned in paragraph (d) was granted, was specified in an instrument in writing for item 6A1001 of Schedule 6A.

### **892.217**

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or
  - (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa;
- the applicant has complied with the conditions of that visa.

### **892.22—Criteria to be satisfied at time of decision**

#### **892.221**

The applicant:

- (a) continues to satisfy the criteria in clauses 892.211 and 892.214; and
- (b) if the applicant met the requirements of paragraph 892.212(b), continues to meet those requirements.

#### **892.222**

- (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

#### **892.223**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

#### **892.224**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 892 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4020; and

Clause 892.225

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- (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 892 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of either:
  - (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
  - (b) a Subclass 457 (Business (Long Stay)) visa; or
  - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of:
  - (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
  - (b) a Subclass 457 (Business (Long Stay)) visa; or
  - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;satisfies public interest criterion 4007.

**892.225**

If a person:

- (a) is a member of the family unit of the applicant; and
  - (b) has not turned 18; and
  - (c) made a combined application with the applicant;
- public interest criteria 4015 and 4016 are satisfied in relation to the person.

**892.3—Secondary criteria**

Note: The secondary criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

**892.31—Criteria to be satisfied at time of application**

**892.311**

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 892.21.

**892.312**

If:

- (a) the applicant is the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa; or



- (b) the last substantive visa held by the applicant since last entering Australia was a Skilled—Independent Regional (Provisional) (Class UX) visa; the applicant has complied with the conditions of that visa.

## **892.32—Criteria to be satisfied at time of decision**

### **892.321**

The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 892 visa.

### **892.322**

- (1) The applicant:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
  - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of either:
  - (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
  - (b) a Subclass 457 (Business (Long Stay)) visa; or
  - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of:
  - (a) a visa of a subclass included in Business Skills (Provisional) (Class UR); or
  - (b) a Subclass 457 (Business (Long Stay)) visa; or
  - (c) a Skilled—Independent Regional (Provisional) (Class UX) visa;the applicant satisfies public interest criterion 4007.

### **892.323**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

## **892.4—Circumstances applicable to grant**

### **892.411**

If the applicant:

- (a) was the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa at the time of application; or
- (b) is a member of the family unit of a person who was the holder of a Skilled—Independent Regional (Provisional) (Class UX) visa by reason of

Clause 892.412

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satisfying the primary criteria for the grant of the visa at the time of application;  
the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

**892.412**

If clause 892.411 does not apply:

- (a) if the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted; and
- (b) if the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

**892.5—When visa is in effect**

**892.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

**892.6—Conditions**

**892.611**

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

## **Subclass 893—State/Territory Sponsored Investor**

### **893.1—Interpretation**

#### **893.111**

In this Part:

***designated investment*** means an investment in a security specified by the Minister under regulation 5.19A for the purposes of this Part.

Note 1: ***appropriate regional authority, AUD, fiscal year, ownership interest and qualifying business*** are defined in regulation 1.03.

Note 2: As to beneficial ownership of an asset or ownership interest, see regulation 1.11A.

Note 3: Regulation 1.03 provides that ***member of the family unit*** has the meaning set out in regulation 1.12. Subregulations 1.12(2) and (5) are relevant for applicants for a Business Skills (Residence) (Class DF) visa.

### **893.2—Primary criteria**

Note: The primary criteria must be satisfied by at least 1 member of a family unit. The other members of the family unit who are applicants for a visa of this subclass need satisfy only the secondary criteria.

### **893.21—Criteria to be satisfied at time of application**

#### **893.211**

Neither the applicant nor his or her spouse or de facto partner (if any) has a history of involvement in business or investment activities that are of a nature that is not generally acceptable in Australia.

#### **893.212**

The applicant has been resident, as the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, in the State or Territory in which the appropriate regional authority that sponsors the applicant is located for a total of at least 2 years in the 4 years immediately before the application is made.

#### **893.213**

The applicant genuinely has a realistic commitment, after the grant of a Subclass 893 visa, to continue to maintain business or investment activity in Australia.

### **893.22—Criteria to be satisfied at time of decision**

#### **893.221**

The applicant continues to satisfy the criteria in clauses 893.211 and 893.213.

Clause 893.222

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**893.222**

- (1) The applicant is sponsored by an appropriate regional authority.
- (2) Form 949 is signed by an officer of the authority who is authorised to sign a sponsorship of that kind.

**893.223**

The designated investment made by the applicant for the purpose of satisfying a requirement for the grant of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa has been held continuously in the name of the applicant, or in the names of the applicant and his or her spouse or de facto partner together, for at least 4 years.

**893.224**

The applicant:

- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4007, 4009, 4010, 4020 and 4021; and
- (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.

**893.225**

- (1) Each member of the family unit of the applicant who is an applicant for a Subclass 893 visa is a person who:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010 and 4020; and
  - (b) if the person had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 893 visa satisfies public interest criteria 4001, 4002, 4003, 4004 and 4020.
- (3) Each member of the family unit of the applicant who, at the time of the applicant's application, was not the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4005.
- (4) Each member of the family unit of the applicant who, at the time of the applicant's application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa satisfies public interest criterion 4007.

**893.226**

If a person:

- (a) is a member of the family unit of the applicant; and
- (b) has not turned 18; and

(c) made a combined application with the applicant;  
public interest criteria 4015 and 4016 are satisfied in relation to the person.

### **893.3—Secondary criteria**

Note: These criteria must be satisfied by applicants who are members of the family unit of a person who satisfies the primary criteria.

### **893.31—Criteria to be satisfied at time of application**

#### **893.311**

The applicant is a member of the family unit of, and made a combined application with, a person who satisfies the primary criteria in Subdivision 893.21.

### **893.32—Criteria to be satisfied at time of decision**

#### **893.321**

The applicant is a member of the family unit of a person who:

- (a) is the person with whom a combined application was made; and
- (b) having satisfied the primary criteria, is the holder of a Subclass 893 visa.

#### **893.322**

- (1) The applicant:
  - (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4009, 4010, 4020 and 4021; and
  - (b) if the applicant had turned 18 at the time of application—satisfies public interest criterion 4019.
- (2) If the applicant, at the time of application, was not the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4005.
- (3) If the applicant, at the time of application, was the holder of a Subclass 165 (State/Territory Sponsored Investor (Provisional)) visa, the applicant satisfies public interest criterion 4007.

#### **893.323**

If the applicant has not turned 18, public interest criteria 4017 and 4018 are satisfied in relation to the applicant.

Clause 893.411

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## **893.4—Circumstances applicable to grant**

### **893.411**

- (1) If the applicant satisfies the primary criteria, the applicant must be inside Australia, but not in immigration clearance, when the visa is granted.
- (2) If the applicant satisfies the secondary criteria, the applicant may be in or outside Australia, but not in immigration clearance, when the visa is granted.

Note: The second instalment of the visa application charge must be paid before the visa can be granted.

## **893.5—When visa is in effect**

### **893.511**

Permanent visa permitting the holder to travel to and enter Australia for 5 years from the date of grant.

## **893.6—Conditions**

### **893.611**

If the applicant is outside Australia when the visa is granted and the applicant satisfies the secondary criteria:

- (a) first entry must be made before a date specified by the Minister for the purpose; and
- (b) condition 8515 may be imposed.

## **Subclass 988—Maritime Crew**

Note: This Subclass is created in accordance with section 38B of the Act.

### **988.1—Interpretation**

Note 1: *Member of the crew* and *non-military ship* are defined in regulation 1.03.

Note 2: For this Part, a person will sign on to a ship in Australia after:

- (a) travelling to Australia on another visa in order to join a ship as a member of the crew; or
- (b) joining the ship in Australia after signing off another ship in Australia; or
- (c) joining another ship after the ship on which the person travelled to Australia is imported under section 49A or 71A of the *Customs Act 1901*.

### **988.2—Primary criteria**

Note: A member of the family unit of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship, need satisfy only the secondary criteria.

### **988.21—Criteria to be satisfied at time of application**

#### **988.211**

The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
  - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and
  - (ii) in relation to whom the offer is current; and
  - (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.

### **988.22—Criteria to be satisfied at time of decision**

#### **988.221**

The applicant is:

- (a) a member of the crew of a non-military ship; or
- (b) a person:
  - (i) who has received an offer from the master, owner, agent, charterer or operator of a non-military ship to become a member of the crew of the ship; and
  - (ii) in relation to whom the offer is current; and
  - (iii) who would be a member of the crew of the non-military ship if the person signs on to the ship.

Clause 988.222

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**988.222**

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4020 and 4021.

**988.223**

The applicant satisfies special return criteria 5001 and 5002.

**988.224**

The Minister is satisfied that the applicant's expressed intention to enter and remain in Australia for the purpose of being a member of the crew of a non-military ship is genuine.

**988.3—Secondary criteria**

Note: These criteria must be satisfied by a member of the family unit of a member of the crew of a non-military ship, or of a prospective member of the crew of a non-military ship.

**988.31—[No criteria to be satisfied at time of application]**

**988.32—Criteria to be satisfied at time of decision**

**988.321**

The applicant is a member of the family unit of a person who is the holder of a Subclass 988 visa on the basis of having satisfied the primary criteria for the grant of the visa.

**988.322**

The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4013, 4014, 4020 and 4021.

**988.323**

The applicant satisfies special return criteria 5001 and 5002.

**988.4—Circumstances applicable to grant**

**988.411**

The applicant may be in or outside Australia when the visa is granted.



## 988.5—When visa is in effect

### 988.511

Temporary visa coming into effect on grant.

### 988.512

The visa ceases to be in effect:

- (a) on the occurrence of the earliest of the circumstances mentioned in an item in the following table; and
- (b) at the time mentioned in the item:

Item	Circumstances	Time at which the visa ceases to have effect
1	Both of the following apply: (a) the holder has entered Australia otherwise than as: (i) a member of the crew serving on a non-military ship; or (ii) a member of the family unit of a member of the crew serving on a non-military ship; (b) the holder has not signed on to a non-military ship as a member of the crew, or as a member of the family unit of a member of the crew, before the latest of: (i) 5 days after the day on which the holder last entered Australia; and (ii) if the holder last entered Australia for health or safety reasons that required the holder to enter Australia—30 days after the day on which the holder last entered Australia; and (iii) if the holder holds another visa that is in effect—the day on which that other visa ceases	The end of the day or period worked out under paragraph (b) in column 2
2	Each of the following applies: (a) the holder has entered Australia; (b) the non-military ship in relation to which the holder is: (i) a member of the crew; or (ii) a member of the family unit of a member of the crew; has been imported under section 49A of the <i>Customs Act 1901</i> or entered for home consumption under section 71A of that Act but is not registered in the Australian International Shipping Register; (c) the holder has not signed on to another non-military ship as a member of the crew, or as a member of the family unit of a member of the crew before the end of the longer of the following periods that applies to the person:	The end of the day or the longest period worked out under paragraph (c) or (d) in column 2

**Schedule 2** Provisions with respect to the grant of Subclasses of visas  
**Subclass 988** Maritime Crew

Clause 988.512

Item	Circumstances	Time at which the visa ceases to have effect
	<ul style="list-style-type: none"> <li>(i) 5 days after the day on which the non-military ship was imported or entered for home consumption;</li> <li>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption—that longer period</li> </ul> <p>(d) the person has not departed Australia before the end of the longest of the following periods that applies to the person:</p> <ul style="list-style-type: none"> <li>(i) 5 days after the day on which the non-military ship was imported or entered for home consumption;</li> <li>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship was imported or entered for home consumption—that longer period;</li> <li>(iii) if the holder holds another visa that is in effect—the day on which that other visa ceases</li> </ul>	
2A	<p>Each of the following applies:</p> <ul style="list-style-type: none"> <li>(a) the holder has entered Australia;</li> <li>(b) the non-military ship in relation to which the holder is: <ul style="list-style-type: none"> <li>(i) a member of the crew; or</li> <li>(ii) a member of the family unit of a member of the crew;</li> </ul> has been imported under section 49A of the <i>Customs Act 1901</i> or entered for home consumption under section 71A of that Act;</li> <li>(c) the non-military ship was registered in the Australian International Shipping Register when the ship was imported or entered for home consumption;</li> <li>(d) the non-military ship ceases to be registered in that Register;</li> <li>(e) the holder has not signed on to another non-military ship as a member of the crew, or as a member of the family unit of a member of the crew, before the end of the longer of the following periods that applies to the person: <ul style="list-style-type: none"> <li>(i) 5 days after the day on which the non-military ship ceases to be registered in the Australian International Shipping Register;</li> <li>(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship ceases to be registered in that Register—that longer period;</li> </ul> </li> <li>(f) the person has not departed Australia before the end of the longest of the following periods that applies to the person: <ul style="list-style-type: none"> <li>(i) 5 days after the day on which the non-military ship ceases to be registered in the Australian International Shipping Register;</li> </ul> </li> </ul>	The end of the day or the longest period worked out under paragraph (e) or (f) in column 2

<b>Item</b>	<b>Circumstances</b>	<b>Time at which the visa ceases to have effect</b>
	(ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the non-military ship ceases to be registered in that Register—that longer period; (iii) if the holder holds another visa that is in effect—the day on which that other visa ceases	
3	Each of the following applies: (a) the holder has entered Australia; (b) the holder has signed off a non-military ship as: (i) a member of the crew of the non-military ship; or (ii) a member of the family unit of a member of the crew of a non-military ship; (c) the holder has not signed on to another non-military ship as a member of the crew or a member of the family unit of a member of the crew before the end of the longer of the following periods that applies to the person: (i) 5 days after the day on which the holder signed off the last ship; (ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia—that longer period; (d) the holder has not departed Australia before the end of the longest of the following periods that applies to the person: (i) 5 days after the day on which the holder signed off the last ship; (ii) if an authorised officer decides, within those 5 days, to allow the person a longer period of up to 30 days after the day on which the holder last entered Australia—that longer period; (iii) if the holder holds another visa that is in effect—the day on which that other visa ceases	The end of the day or the longest period worked out under paragraph (c) or (d) in column 2
4	The end of a continuous period of 3 years starting when the visa is granted	At the end of the period of 3 years
5	Both of the following apply: (a) the holder is a person who satisfied the secondary criteria for the grant of the visa; (b) the maritime crew visa granted to the person who satisfied the primary criteria for the grant of the visa ceases to be in effect	The end of the day on which the maritime crew visa granted to the holder who satisfied the primary criteria ceases to be in effect
6	Both of the following apply: (a) the holder also holds another visa; (b) the other visa is cancelled otherwise than under section 501, 501A or 501B of the Act	At the end of the day on which the other visa is cancelled

Clause 988.611

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## **988.6—Conditions**

### **988.611**

For an applicant who satisfies the primary criteria, condition 8113.

### **988.612**

For an applicant who satisfies the secondary criteria, condition 8101.

## **Subclass 995—Diplomatic (Temporary)**

### **995.1—Interpretation**

#### **995.111**

In this Part:

*international representative* means a representative of an international organisation.

### **995.2—Primary criteria**

Note: The primary criteria must be satisfied by at least 1 person. Other accompanying applicants for a visa of this subclass need satisfy only the secondary criteria.

#### **995.21—[No criteria to be satisfied at time of application]**

#### **995.22—Criteria to be satisfied at time of decision.**

##### **995.221**

The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant on the basis of the applicant being:

- (a) a diplomatic or consular representative; or
- (b) an international representative.

##### **995.222**

The applicant satisfies public interest criterion 4021.

### **995.3—Secondary criteria**

#### **995.31—[No criteria to be satisfied at time of application]**

#### **995.32—Criteria to be satisfied at time of decision**

##### **995.321**

The Foreign Minister has recommended in writing to the Minister that the visa be granted to the applicant to accompany a person (the primary applicant) who seeks to satisfy the primary criteria.

##### **995.322**

The primary applicant has satisfied the criteria for the grant of a visa as a primary applicant.

Clause 995.323

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**995.323**

The applicant satisfies public interest criterion 4021.

**995.4—Circumstances applicable to grant**

**995.411**

Applicant may be in the migration zone or outside Australia.

**995.5—When visa is in effect**

**995.511**

Temporary visa permitting the holder:

- (a) to travel to and enter Australia until a date specified by the Minister for the purpose; and
- (b) to remain in Australia:
  - (i) if the visa was issued on the basis of the holder satisfying the primary criteria for the grant of the visa—for the duration of the holder's status as:
    - (A) a diplomatic or consular representative in Australia of a country other than Australia; or
    - (B) an international representative; or
  - (ii) if the visa was issued on the basis of the holder satisfying the secondary criteria for the grant of the visa—for the duration of the status of the person who satisfied the primary criteria as:
    - (A) a diplomatic or consular representative in Australia of a country other than Australia; or
    - (B) an international representative; or
  - (iii) in any case—until an earlier date specified by the Minister.

**995.6—Conditions**

**995.611**

If the applicant satisfies the primary criteria, condition 8516.

**995.612**

If the applicant satisfies the secondary criteria, conditions 8502 and 8516.

## **Schedule 3—Additional criteria applicable to unlawful non-citizens and certain bridging visa holders**

(regulation 1.03)

- 3001 (1) The application is validly made within 28 days after the relevant day (within the meaning of subclause (2)).
- (2) For the purposes of subclause (1) and of clause 3002, the relevant day, in relation to an applicant, is:
- (a) if the applicant held an entry permit that was valid up to and including 31 August 1994 but has not subsequently been the holder of a substantive visa—1 September 1994; or
  - (b) if the applicant became an illegal entrant before 1 September 1994 (whether or not clause 6002 in Schedule 6 of the Migration (1993) Regulations applied or section 195 of the Act applies) and has not, at any time on or after 1 September 1994, been the holder of a substantive visa—the day when the applicant last became an illegal entrant; or
  - (c) if the applicant:
    - (i) ceased to hold a substantive or criminal justice visa on or after 1 September 1994; or
    - (ii) entered Australia unlawfully on or after 1 September 1994;whichever is the later of:
    - (iii) the last day when the applicant held a substantive or criminal justice visa; or
    - (iv) the day when the applicant last entered Australia unlawfully; or
  - (d) if the last substantive visa held by the applicant was cancelled, and the Tribunal has made a decision to set aside and substitute the cancellation decision or the Minister’s decision not to revoke the cancellation—the later of:
    - (i) the day when that last substantive visa ceased to be in effect; and
    - (ii) the day when the applicant is taken, under sections 368C, 368D and 379C of the Act, to have been notified of the Tribunal’s decision.
- 3002 The application is validly made within 12 months after the relevant day (within the meaning of subclause 3001(2)).
- 3003 If:
- (a) the applicant has not, on or after 1 September 1994, been the holder of a substantive visa; and
  - (b) on 31 August 1994, the applicant was either:
    - (i) an illegal entrant; or
    - (ii) the holder of an entry permit that was not valid beyond 31 August 1994;
- the Minister is satisfied that:
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- (c) the applicant last became an illegal entrant, or, in the case of a person referred to in subparagraph (b)(ii), last became a person in Australia without a substantive visa, because of factors beyond the applicant's control; and
- (d) there are compelling reasons for granting the visa; and
- (e) the applicant has complied substantially with the conditions that apply or applied to:
  - (i) the last of any entry permits held by the applicant (other than a condition of which the applicant was in breach solely because of the expiry of the entry permit); and
  - (ii) any subsequent bridging visa; and
- (f) the applicant would have been entitled to be granted an entry permit equivalent to a visa of the class applied for if the applicant had applied for the entry permit immediately before last becoming an illegal entrant or, in the case of a person referred to in subparagraph (b)(ii), if the applicant had applied for the entry permit on 31 August 1994; and
- (g) the applicant intends to comply with any conditions subject to which the visa is granted; and
- (h) the last entry permit (if any) held by the applicant was not granted subject to a condition that the holder would not, after entering Australia, be entitled to be granted an entry permit, or a further entry permit, while the holder remained in Australia.

3004

If the applicant:

- (a) ceased to hold a substantive or criminal justice visa on or after 1 September 1994; or
- (b) entered Australia unlawfully on or after 1 September 1994 and has not subsequently been granted a substantive visa;

the Minister is satisfied that:

- (c) the applicant is not the holder of a substantive visa because of factors beyond the applicant's control; and
- (d) there are compelling reasons for granting the visa; and
- (e) the applicant has complied substantially with:
  - (i) the conditions that apply or applied to:
    - (A) the last of any entry permits held by the applicant (other than a condition of which the applicant was in breach solely because of the expiry of the entry permit); and
    - (B) any subsequent bridging visa; or
  - (ii) the conditions that apply or applied to:
    - (A) the last of any substantive visas held by the applicant (other than a condition of which the applicant was in breach solely because the visa ceased to be in effect); and
    - (B) any subsequent bridging visa; and
- (f) either:
  - (i) in the case of an applicant referred to in paragraph (a)—the applicant would have been entitled to be granted a visa of the class applied for



if the applicant had applied for the visa on the day when the applicant last held a substantive or criminal justice visa; or

- (ii) in the case of an applicant referred to in paragraph (b)—the applicant would have satisfied the criteria (other than any Schedule 3 criteria) for the grant of a visa of the class applied for on the day when the applicant last entered Australia unlawfully; and
- (g) the applicant intends to comply with any conditions subject to which the visa is granted; and
- (h) if the last visa (if any) held by the applicant was a transitional (temporary) visa, that visa was not subject to a condition that the holder would not, after entering Australia, be entitled to be granted an entry permit, or a further entry permit, while the holder remained in Australia.

3005 A visa or entry permit has not previously been granted to the applicant on the basis of the satisfaction of any of the criteria set out in:

- (a) this Schedule; or
- (b) Schedule 6 of the Migration (1993) Regulations; or
- (c) regulation 35AA or subregulation 42(1A) or (1C) of the Migration (1989) Regulations.

Note: Section 10 of the Act provides that a child who was born in the migration zone and was a non-citizen when he or she was born shall be taken to have entered Australia when he or she was born.

## Schedule 4—Public interest criteria and related provisions

(regulation 1.03)

### Part 1—Public interest criteria

- 4001 Either:
- (a) the person satisfies the Minister that the person passes the character test; or
  - (b) the Minister is satisfied, after appropriate inquiries, that there is nothing to indicate that the person would fail to satisfy the Minister that the person passes the character test; or
  - (c) the Minister has decided not to refuse to grant a visa to the person despite reasonably suspecting that the person does not pass the character test; or
  - (d) the Minister has decided not to refuse to grant a visa to the person despite not being satisfied that the person passes the character test.
- 4002 The applicant is not assessed by the Australian Security Intelligence Organisation to be directly or indirectly a risk to security, within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*.
- 4003 The applicant:
- (a) is not determined by the Foreign Minister, or a person authorised by the Foreign Minister, to be a person whose presence in Australia is, or would be, contrary to Australia's foreign policy interests; and
  - (b) is not determined by the Foreign Minister, or a person authorised by the Foreign Minister, to be a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction; and
  - (c) either:
    - (i) is not declared under paragraph 6(1)(b) or (2)(b) of the *Autonomous Sanctions Regulations 2011* for the purpose of preventing the person from travelling to, entering or remaining in Australia; or
    - (ii) if the applicant is declared—is a person for whom the Foreign Minister has waived the operation of the declaration in accordance with regulation 19 of the *Autonomous Sanctions Regulations 2011*.
- 4003A The applicant is not determined by the Foreign Minister, or a person authorised by the Foreign Minister, to be a person whose presence in Australia may be directly or indirectly associated with the proliferation of weapons of mass destruction.
- 4004 The applicant does not have outstanding debts to the Commonwealth unless the Minister is satisfied that appropriate arrangements have been made for payment.
- 4005 (1) The applicant:
- (aa) if the applicant is in a class of persons specified by the Minister in an instrument in writing for this paragraph:

- (i) must undertake any medical assessment specified in the instrument; and
      - (ii) must be assessed by the person specified in the instrument; unless a Medical Officer of the Commonwealth decides otherwise; and
    - (ab) must comply with any request by a Medical Officer of the Commonwealth to undertake a medical assessment; and
    - (a) is free from tuberculosis; and
    - (b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
    - (c) is free from a disease or condition in relation to which:
      - (i) a person who has it would be likely to:
        - (A) require health care or community services; or
        - (B) meet the medical criteria for the provision of a community service;during the period described in subclause (2); and
      - (ii) the provision of the health care or community services would be likely to:
        - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
        - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and
    - (d) if the applicant is a person from whom a Medical Officer of the Commonwealth 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 assessment—has provided the undertaking.
- (2) For subparagraph (1)(c)(i), the period is:
  - (a) for an application for a permanent visa—the period commencing when the application is made; or
  - (b) for an application for a temporary visa:
    - (i) the period for which the Minister intends to grant the visa; or
    - (ii) if the visa is of a subclass specified by the Minister in an instrument in writing for this subparagraph—the period commencing when the application is made.
- (3) If:
  - (a) the applicant applies for a temporary visa; and
  - (b) the subclass being applied for is not specified by the Minister in an instrument in writing made for subparagraph (2)(b)(ii);the reference in sub-subparagraph (1)(c)(ii)(A) to health care and community services does not include the health care and community services specified by the Minister in an instrument in writing made for this subclause.

4006A (1) The applicant:

- (aa) if the applicant is in a class of persons specified by the Minister in an instrument in writing for this paragraph:
  - (i) must undertake any medical assessment specified in the instrument; and
  - (ii) must be assessed by the person specified in the instrument; unless a Medical Officer of the Commonwealth decides otherwise; and
- (ab) must comply with any request by a Medical Officer of the Commonwealth to undertake a medical assessment; and
  - (a) is free from tuberculosis; and
  - (b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
- (c) subject to subclause (2)—is free from a disease or condition in relation to which:
  - (i) a person who has it would be likely to:
    - (A) require health care or community services; or
    - (B) meet the medical criteria for the provision of a community service;during the period described in subclause (1A); and
  - (ii) the provision of the health care or community services would be likely to:
    - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
    - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;regardless of whether the health care or community services will actually be used in connection with the applicant; and
- (d) if the applicant is a person from whom a Medical Officer of the Commonwealth 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 assessment—has provided the undertaking.

(1A) For subparagraph (1)(c)(i), the period is:

- (a) for an application for a permanent visa—the period commencing when the application is made; or
- (b) for an application for a temporary visa:
  - (i) the period for which the Minister intends to grant the visa; or
  - (ii) if the visa is of a subclass specified by the Minister in an instrument in writing for this subparagraph—the period commencing when the application is made.

(1B) If:

- (a) the applicant applies for a temporary visa; and

(b) the subclass being applied for is not specified by the Minister in an instrument in writing made for subparagraph (1A)(b)(ii);  
the reference in sub-subparagraph (1)(c)(ii)(A) to health care and community services does not include the health care and community services specified by the Minister in an instrument in writing made for this subclause.

- (2) The Minister may waive the requirements of paragraph (1)(c) if the relevant nominator has given the Minister a written undertaking that the relevant nominator will meet all costs related to the disease or condition that causes the applicant to fail to meet the requirements of that paragraph.
- (3) In subclause (2), **relevant nominator** means an approved sponsor who:
- (a) has lodged a nomination in relation to a primary applicant; or
  - (b) has included an applicant who is a member of the family unit of a primary applicant in a nomination for the primary applicant; or
  - (c) has agreed in writing for an applicant who is a member of the family unit of a primary applicant to be a secondary sponsored person in relation to the approved sponsor.

- 4007 (1) The applicant:
- (aa) if the applicant is in a class of persons specified by the Minister in an instrument in writing for this paragraph:
    - (i) must undertake any medical assessment specified in the instrument;  
and
    - (ii) must be assessed by the person specified in the instrument;  
unless a Medical Officer of the Commonwealth decides otherwise; and
  - (ab) must comply with any request by a Medical Officer of the Commonwealth to undertake a medical assessment; and
    - (a) is free from tuberculosis; and
    - (b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and
  - (c) subject to subclause (2)—is free from a disease or condition in relation to which:
    - (i) a person who has it would be likely to:
      - (A) require health care or community services; or
      - (B) meet the medical criteria for the provision of a community service;  
during the period described in subclause (1A); and
    - (ii) the provision of the health care or community services would be likely to:
      - (A) result in a significant cost to the Australian community in the areas of health care and community services; or
      - (B) prejudice the access of an Australian citizen or permanent resident to health care or community services;  
regardless of whether the health care or community services will actually be used in connection with the applicant; and

- (d) if the applicant is a person from whom a Medical Officer of the Commonwealth 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 assessment—has provided the undertaking.
- (1A) For subparagraph (1)(c)(i), the period is:
- (a) for an application for a permanent visa—the period commencing when the application is made; or
  - (b) for an application for a temporary visa:
    - (i) the period for which the Minister intends to grant the visa; or
    - (ii) if the visa is of a subclass specified by the Minister in an instrument in writing for this subparagraph—the period commencing when the application is made.
- (1B) If:
- (a) the applicant applies for a temporary visa; and
  - (b) the subclass being applied for is not specified by the Minister in an instrument in writing made for subparagraph (1A)(b)(ii);
- the reference in sub-subparagraph (1)(c)(ii)(A) to health care and community services does not include the health care and community services specified by the Minister in an instrument in writing made for this subclause.
- (2) The Minister may waive the requirements of paragraph (1)(c) if:
- (a) the applicant satisfies all other criteria for the grant of the visa applied for; and
  - (b) the Minister is satisfied that the granting of the visa would be unlikely to result in:
    - (i) undue cost to the Australian community; or
    - (ii) undue prejudice to the access to health care or community services of an Australian citizen or permanent resident.
- 4009 The applicant:
- (a) intends to live permanently in Australia; and
  - (b) if the applicant seeks entry to Australia as a member of a family unit, also satisfies the Minister that the applicant could obtain support in Australia from other members of the family unit.
- 4010 If the applicant seeks to remain in Australia permanently, or temporarily for longer than 12 months, the applicant is likely to become established in Australia without undue personal difficulty and without imposing undue difficulties or costs on the Australian community.
- 4011 (1) If the applicant is affected by the risk factor specified in subclause (2), the applicant satisfies the Minister that, having regard to the applicant's circumstances in the applicant's country of usual residence, there is very little likelihood that the applicant will remain after the expiry of any period during which the applicant might be authorised to remain after entry.

- (2) An applicant is affected by the risk factor referred to in subclause (1) if:
- (a) during the period of 5 years immediately preceding the application, the applicant has applied for a visa for the purpose of permanent residence in Australia; or
  - (b) the applicant has all the characteristics of a class of persons specified in a legislative instrument made by the Minister for the purposes of this paragraph.
- (2A) In specifying a class of persons for the purposes of paragraph (2)(b), the Minister must have regard to statistics prepared by the Secretary:
- (a) from movement records kept by Immigration about persons who have remained in Australia after expiry of the period during which each person was authorised to remain in Australia under the visa with which he or she last entered Australia; and
  - (b) having regard to one or more of the characteristics mentioned in subclause (3).
- (3) For the purposes of paragraph (2)(b), a characteristic is any of the following:
- (a) nationality;
  - (b) marital or relationship status;
  - (c) age;
  - (d) sex;
  - (e) occupation;
  - (f) the class of visa currently applied for;
  - (g) the place of lodgment or posting of the application for that visa.
- 4012 In the case of an applicant:
- (a) who has not turned 18; and
  - (b) whose intended stay in Australia will not be in the company of either or both of his or her parents or guardians; and
  - (c) whose application expresses an intention to visit, or stay with, a person in Australia who is not a relative of the applicant; and
  - (d) who is not a member of an organised tour and for whom no adequate maintenance and support arrangements have been made for the total period of stay in Australia;
- an undertaking to provide accommodation for, and to be responsible for the support and general welfare of, the applicant during the applicant's stay in Australia is given to the Minister by a person who, in the reasonable belief of the Minister, is of good character.
- 4012A In the case of an applicant who has not turned 18:
- (a) the application expresses a genuine intention to reside in Australia with a person who:
    - (i) is a parent of the applicant or a person who has custody of the applicant; or
    - (ii) is:
      - (A) a relative of the applicant; and
-

- (B) nominated by a parent of the applicant or a person who has custody of the applicant; and
  - (C) aged at least 21; and
  - (D) of good character; or
- (b) a signed statement is given to the Minister by the education provider for the course in which the applicant is enrolled confirming that appropriate arrangements have been made for the applicant's accommodation, support and general welfare for at least the minimum period of enrolment stated on the applicant's:
- (i) confirmation of enrolment; or
  - (ii) AASES form;
- plus 7 days after the end of that period; or
- (c) if the applicant is a Foreign Affairs student or a Defence student, appropriate arrangements for the applicant's accommodation, support and general welfare have been approved by:
- (i) in the case of a Foreign Affairs student—the Foreign Minister; and
  - (ii) in the case of a Defence student—the Defence Minister.
- 4013 (1) If the applicant is affected by a risk factor mentioned in subclause (1A), (2), (2A) or (3):
- (a) the application is made more than 3 years after the cancellation of the visa or the determination of the Minister, as the case may be, referred to in the subclause that relates to the applicant; or
  - (b) the Minister is satisfied that, in the particular case:
    - (i) compelling circumstances that affect the interests of Australia; or
    - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;justify the granting of the visa within 3 years after the cancellation or determination.
- (1A) A person is affected by a risk factor if a visa previously held by the person was cancelled:
- (a) under section 109, paragraph 116(1)(d), subsection 116(1AA) or (1AB) or section 133A of the Act; or
  - (b) under section 128 of the Act because the Minister was satisfied that the ground mentioned in paragraph 116(1)(d) of the Act applied to the person; or
  - (c) under section 133C of the Act because the Minister was satisfied that the ground mentioned in paragraph 116(1)(d) or subsection 116(1AA) or (1AB) of the Act applied to the person.
- (2) A person is affected by a risk factor if a visa previously held by the person was cancelled under section 116, 128 or 133C of the Act:
- (a) because the person was found by Immigration to have worked without authority; or



- (b) if the visa was of a subclass specified in Part 2 of this Schedule—because the person did not comply with a condition specified in that Part in relation to that subclass; or
  - (c) if the visa was a Subclass 773 (Border) visa and, at the time of grant of the visa, the person was apparently eligible for a substantive visa of a subclass specified in Part 2 of this Schedule—because the person did not comply with a condition specified in that Part in relation to that subclass of substantive visa; or
  - (ca) because the person held a student visa and the Minister was satisfied that a ground mentioned in paragraph 116(1)(fa) of the Act applied to the person; or
  - (d) because the Minister was satisfied that a ground prescribed by paragraph 2.43(1)(ea), (i), (ia), (j), (k), (ka), (kb), (m), (o), (oa) or (ob) applied to the person.
- (2A) A person is affected by a risk factor if a visa previously held by the person was cancelled under section 137J of the Act.
- (3) A person is affected by a risk factor if a visa previously held by the person was cancelled because the Minister was satisfied that a ground mentioned in paragraph 116(1)(e) of the Act applied to the person.
- 4014 (1) If the applicant is affected by the risk factor specified in subclause (4):
- (a) the application is made more than 3 years after the departure of the person from Australia referred to in that subclause; or
  - (b) the Minister is satisfied that, in the particular case:
    - (i) compelling circumstances that affect the interests of Australia; or
    - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;justify the granting of the visa within 3 years after the departure.
- (4) Subject to subclause (5), a person is affected by a risk factor if the person left Australia as:
- (a) an unlawful non-citizen; or
  - (b) the holder of a Bridging C (Class (WC), Bridging D (Class WD) or Bridging E (Class WE) visa.
- (5) Subclause (4) does not apply to a person if:
- (a) the person left Australia within 28 days after a substantive visa held by the person ceased to be in effect; or
  - (b) a bridging visa held by the person at the time of departure was granted:
    - (i) within 28 days after a substantive visa held by the person ceased to be in effect; or
    - (ii) while the person held another bridging visa granted:
      - (A) while the person held a substantive visa; or
      - (B) within 28 days after a substantive visa held by the person ceased to be in effect.

- 4015 The Minister is satisfied of 1 of the following:
- (a) the law of the additional applicant's home country permits the removal of the additional applicant;
  - (b) each person who can lawfully determine where the additional applicant is to live consents to the grant of the visa;
  - (c) the grant of the visa would be consistent with any Australian child order in force in relation to the additional applicant.
- 4016 The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the additional applicant.
- 4017 The Minister is satisfied of 1 of the following:
- (a) the law of the applicant's home country permits the removal of the applicant;
  - (b) each person who can lawfully determine where the applicant is to live consents to the grant of the visa;
  - (c) the grant of the visa would be consistent with any Australian child order in force in relation to the applicant.
- 4018 The Minister is satisfied that there is no compelling reason to believe that the grant of the visa would not be in the best interests of the applicant.
- 4019 (1) The applicant has signed a statement (a *values statement*) in accordance with Part 3.
- Note: Part 3 sets out further provisions relating to values statements and the requirements for this criterion.
- (2) However, if compelling circumstances exist, the Minister may decide that the applicant is not required to satisfy subclause (1).
- 4020 (1) There is no evidence before the Minister that the applicant has given, or caused to be given, to the Minister, an officer, the Tribunal during the review of a Part 5-reviewable decision, a relevant assessing authority or a Medical Officer of the Commonwealth, a bogus document or information that is false or misleading in a material particular in relation to:
- (a) the application for the visa; or
  - (b) a visa that the applicant held in the period of 12 months before the application was made.
- (2) The Minister is satisfied that during the period:
- (a) starting 3 years before the application was made; and
  - (b) ending when the Minister makes a decision to grant or refuse to grant the visa;
- the applicant and each member of the family unit of the applicant has not been refused a visa because of a failure to satisfy the criteria in subclause (1).
- (2AA) However, subclause (2) does not apply to the applicant if, at the time the application for the refused visa was made, the applicant was under 18.
- (2A) The applicant satisfies the Minister as to the applicant's identity.
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- (2B) The Minister is satisfied that during the period:
- (a) starting 10 years before the application was made; and
  - (b) ending when the Minister makes a decision to grant or refuse to grant the visa;
- neither the applicant, nor any member of the family unit of the applicant, has been refused a visa because of a failure to satisfy the criteria in subclause (2A).

- (2BA) However, subclause (2B) does not apply to the applicant if, at the time the application for the refused visa was made, the applicant was under 18.
- (3) To avoid doubt, subclauses (1) and (2) apply whether or not the Minister became aware of the bogus document or information that is false or misleading in a material particular because of information given by the applicant.
- (4) The Minister may waive the requirements of any or all of paragraphs (1)(a) or (b) and subclause (2) if satisfied that:
- (a) compelling circumstances that affect the interests of Australia; or
  - (b) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;
- justify the granting of the visa.

- (5) In this clause:

***information that is false or misleading in a material particular*** means information that is:

- (a) false or misleading at the time it is given; and
- (b) relevant to any of the criteria the Minister may consider when making a decision on an application, whether or not the decision is made because of that information.

Note: For the definition of ***bogus document***, see subsection 5(1) of the Act.

4021 Either:

- (a) the applicant holds a valid passport that:
  - (i) was issued to the applicant by an official source; and
  - (ii) is in the form issued by the official source; and
  - (iii) is not in a class of passports specified by the Minister in an instrument in writing for this clause; or
- (b) it would be unreasonable to require the applicant to hold a passport.

4022 Either:

- (a) the applicant has signed a code of behaviour that:
  - (i) has been approved by the Minister in accordance with Part 4; and
  - (ii) is in effect for the subclass of visa; or
- (b) the Minister does not require the applicant to sign a code of behaviour that is in effect for the subclass of visa.

**Schedule 4** Public interest criteria and related provisions**Part 2** Conditions applicable to certain subclasses of visas for the purposes of subclause 4013(2)**Part 2—Conditions applicable to certain subclasses of visas  
for the purposes of subclause 4013(2)**

<b>Column 1 Item</b>	<b>Column 2 Visa Subclass</b>	<b>Column 3 Conditions</b>
4050	405 (Investor Retirement)	8104
4051	410 (Retirement)	8101 or 8104
4055AAA	402 (Training and Research)	8102, 8103, 8501, 8531 or 8536
4055AB	488 (Superyacht Crew)	8107 or 8114
4056	500 (Student)	8104, 8105, 8202, 8501, 8517 or 8518
4058A	570 (Independent ELICOS Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058B	571 (Schools Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058C	572 (Vocational Education and Training Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058D	573 (Higher Education Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058E	574 (Postgraduate Research Sector) 574 (Masters and Doctorate Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058F	575 (Non-Award Sector) 575 (Non-award Foundation/Other Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058G	576 (Foreign Affairs or Defence Sector)	8101, 8104, 8105, 8202, 8501, 8517 or 8518
4058GA	602 (Medical Treatment)	8101 or 8201
4058H	651 (eVisitor)	8101, 8115 or 8201
4064	675 (Medical Treatment (Short Stay))	8101 or 8201
4065A	676 (Tourist)	8101, 8201 or 8558
4065B	600 (Visitor)	8101, 8115, 8201 and 8558
4070	685 (Medical)	8101 or 8201
4072	771 (Transit)	8101 or 8201
4073	956 (Electronic Travel Authority (Business Entrant— Long Validity))	8201
4074	976 (Electronic Travel Authority (Visitor))	8101 or 8201
4075	977 (Electronic Travel Authority (Business Entrant— Short Validity))	8201
4076	601 (Electronic Travel Authority)	8115 and 8201

## **Part 3—Requirements for public interest criterion 4019**

### **3.1 Values statement**

#### *Statement*

- (1) For public interest criterion 4019, the Minister must, by instrument in writing, approve one or more values statements for the subclasses of visas specified in the instrument.
- (2) A values statement must include provisions relating to:
  - (a) values that are important to Australian society; and
  - (b) matters concerning Australian citizenship (if relevant); and
  - (c) compliance with the laws of Australia.
- (3) A values statement may include other provisions.

#### *Signing values statement—Internet application*

- (4) For public interest criterion 4019, a values statement is taken to have been signed by an applicant who makes an Internet application if the instructions for signing the values statement are followed.

## **Part 4—Requirements for public interest criterion 4022**

### **4.1 Code of behaviour**

For public interest criterion 4022, the Minister must, by instrument in writing, approve one or more written codes of behaviour for the subclasses of visas specified in the instrument.

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## Schedule 5—Special return criteria

(regulation 1.03)

- 5001 The applicant is not:
- (a) a person who left Australia while the subject of a deportation order under:
    - (i) section 200 of the Act; or
    - (ii) section 55, 56 or 57 of the Act as in force on and after 19 December 1989 but before 1 September 1994; or
    - (iii) section 12, 13 or 14 of the Act as in force before 19 December 1989;or
  - (b) a person whose visa has been cancelled under section 501 of the Act, as in force before 1 June 1999, wholly or partly because the Minister, having regard to the person's past criminal conduct, was satisfied that the person is not of good character; or
  - (c) a person whose visa has been cancelled under section 501, 501A or 501B of the Act, if:
    - (i) the cancellation has not been revoked under subsection 501C(4) or 501CA(4) of the Act; or
    - (ii) after cancelling the visa, the Minister has not, acting personally, granted a permanent visa to the person; or
  - (d) a person whose visa has been cancelled under section 501BA of the Act if the Minister has not, acting personally, granted a permanent visa to the person after that cancellation.
- 5002 If the applicant is a person who has been removed from Australia under section 198, 199 or 205 of the Act:
- (a) the application is made more than 12 months after the removal; or
  - (b) the Minister is satisfied that, in the particular case:
    - (i) compelling circumstances that affect the interests of Australia; or
    - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen;justify the granting of the visa within 12 months after the removal.
- 5010 (1) If:
- (a) the applicant is the holder of a Foreign Affairs student visa; or
  - (b) the applicant is the holder of a student visa granted to the applicant who is provided financial support by the government of a foreign country;
- the applicant meets the requirements of subclause (3), (4) or (5).
- (2) If:
- (a) the applicant is not the holder of a Foreign Affairs student visa and has in the past held a Foreign Affairs student visa; or
  - (b) both:

- (i) paragraph (a) does not apply to the applicant, and the applicant is not the holder of a substantive visa; and
  - (ii) the last substantive visa held by the applicant was a student visa granted to the applicant who was provided financial support by the government of a foreign country;the applicant meets the requirements of subclause (3), (4) or (5).
- (3) The applicant meets the requirements of this subclause if the course of study or training to which:
  - (a) the visa mentioned in paragraph (1)(a) or (b) relates; or
  - (b) if paragraph (2)(a) applies—the Foreign Affairs student visa most recently held by the applicant related; or
  - (c) if paragraph (2)(b) applies—the last substantive visa held by the applicant related;(whether or not the applicant has ceased the course) is one designed to be undertaken over a period of less than 12 months.
- (4) The applicant meets the requirements of this subclause if the applicant:
  - (a) has ceased:
    - (i) the course of study or training to which:
      - (A) the visa mentioned in paragraph (1)(a) or (b) relates; or
      - (B) if paragraph (2)(a) applies—the Foreign Affairs student visa most recently held by the applicant related; or
      - (C) if paragraph (2)(b) applies—the last substantive visa held by the applicant related; or
    - (ii) another course approved by the AusAID Minister, the Foreign Minister or the government of the foreign country that provided financial support to the applicant, as the case requires, in substitution for that course; and
  - (b) has spent at least 2 years outside Australia since ceasing the course.
- (5) The applicant meets the requirements of this subclause if:
  - (a) the applicant has the support of the Foreign Minister or the government of the foreign country that provided financial support to the applicant, as the case requires, for the grant of the visa; or
  - (b) the Minister is satisfied that, in the particular case, waiving the requirement of paragraph (a) is justified by:
    - (i) compelling circumstances that affect the interests of Australia; or
    - (ii) compassionate or compelling circumstances that affect the interests of an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.
- (6) In this clause:

*cease* has the same meaning as in regulation 1.04A.

*Foreign Affairs student visa* has the same meaning as in regulation 1.04A.



## **Schedule 6D—General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1)**

(regulation 2.26AC)

### **Part 6D.1—Age qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa, the applicant's age was ...</b>	<b>Number of points</b>
6D11	not less than 18 and under 25	25
6D12	not less than 25 and under 33	30
6D13	not less than 33 and under 40	25
6D14	not less than 40 and under 45	15

**Schedule 6D** General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1)

**Part 6D.2** English language qualifications

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## **Part 6D.2—English language qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa, the applicant had ...</b>	<b>Number of points</b>
6D21	superior English	20
6D22	proficient English	10

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## Part 6D.3—Overseas employment experience qualifications

Item	At the time of invitation to apply for the visa, the applicant ...	Number of points
6D31	had been employed outside Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 36 months in the 10 years immediately before that time	5
6D32	had been employed outside Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 60 months in the 10 years immediately before that time	10
6D33	had been employed outside Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 96 months in the 10 years immediately before that time	15

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## Part 6D.4—Australian employment experience qualifications

Item	At the time of invitation to apply for the visa, the applicant ...	Number of points
6D41	had been employed in Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 12 months in the 10 years immediately before that time	5
6D42	had been employed in Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 36 months in the 10 years immediately before that time	10
6D43	had been employed in Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 60 months in the 10 years immediately before that time	15
6D44	had been employed in Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 96 months in the 10 years immediately before that time	20

## **Part 6D.5—Aggregating points for employment experience qualifications**

- 6D51 (1) If an applicant has a qualification mentioned in Part 6D.3 and a qualification mentioned in Part 6D.4, and the combined number of points that would be awarded under those Parts for the qualifications is more than 20 points:
- (a) the Minister must give the applicant 20 points under this Part for the qualifications; and
  - (b) no points are given under Part 6D.3 or 6D.4.
- (2) The prescribed number of points for the combination of qualifications is 20.

**Schedule 6D** General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1)

**Part 6D.6** Australian professional year qualifications

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## **Part 6D.6—Australian professional year qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa, the applicant had completed ...</b>	<b>Number of points</b>
6D61	a professional year in Australia in: (a) the applicant's nominated skilled occupation; or (b) a closely related skilled occupation; for a period totalling at least 12 months in the 48 months immediately before that time	5

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## Part 6D.7—Educational qualifications

Item	At the time of invitation to apply for the visa, the applicant had ...	Number of points
6D71	met the requirements for: (a) the award of a doctorate by an Australian educational institution; or (b) the award of a doctorate, by another educational institution, that is of a recognised standard	20
6D72	met the requirements for: (a) the award of at least a bachelor degree by an Australian educational institution; or (b) the award of at least a bachelor qualification, by another educational institution, that is of a recognised standard	15
6D73	met the requirements for the award of a diploma by an Australian educational institution	10
6D74	met the requirements for the award of a trade qualification by an Australian educational institution	10
6D75	attained a qualification or award recognised by the relevant assessing authority for the applicant's nominated skilled occupation as being suitable for the occupation	10

**Schedule 6D** General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1)

**Part 6D.7A** Specialist educational qualifications

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## **Part 6D.7A—Specialist educational qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa ...</b>	<b>Number of points</b>
6D7A1	the applicant met the requirements for the award of a specialist educational qualification	5



## **Part 6D.8—Australian study qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa ...</b>	<b>Number of points</b>
6D81	the applicant met the Australian study requirement	5

**Schedule 6D** General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1)

**Part 6D.9** Credentialed community language qualifications

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## **Part 6D.9—Credentialed community language qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa, the applicant had ...</b>	<b>Number of points</b>
6D91	a qualification in a particular language: (a) awarded or accredited by a body specified by the Minister in an instrument in writing for this item; and (b) at a standard for the language specified in the instrument	5

## **Part 6D.10—Study in regional Australia or a low-population growth metropolitan area qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa ...</b>	<b>Number of points</b>
6D101	each of the following applied: (a) the applicant met the Australian study requirement; (b) the location of the campus or campuses at which that study was undertaken is specified by the Minister in an instrument in writing for this item; (c) while the applicant undertook the course of study the applicant lived in a part of Australia the postcode of which is specified by the Minister in an instrument in writing for this item; (d) none of the study undertaken constituted distance education	5

## Part 6D.11—Partner skill qualifications

Item	Qualification	Number of points
6D111	<p>The spouse or de facto partner of the applicant (the <i>primary applicant</i>):</p> <ul style="list-style-type: none"><li>(a) is an applicant for the same subclass of visa as the primary applicant; and</li><li>(b) is not an Australian permanent resident or an Australian citizen; and</li><li>(c) was under 50 at the time the invitation to apply for the visa was issued to the primary applicant; and</li><li>(d) at the time of invitation to apply for the visa, nominated a skilled occupation, being an occupation specified by the Minister under paragraph 1.15I(1)(a) at that time; and</li><li>(e) at the time of invitation to apply for the visa, had been assessed by the relevant assessing authority for the nominated skilled occupation as having suitable skills for the occupation and the assessment was not for a Subclass 485 (Temporary Graduate) visa; and</li><li>(f) at the time of invitation to apply for the visa, had competent English</li></ul>	5

## **Part 6D.12—State or Territory nomination qualifications**

<b>Item</b>	<b>Qualification</b>	<b>Number of points</b>
6D121	The applicant has been invited to apply for a Subclass 190 (Skilled—Nominated) visa, and the nominating State or Territory government agency has not withdrawn the nomination	5

**Schedule 6D** General points test for General Skilled Migration visas mentioned in subregulation 2.26AC(1)

**Part 6D.13** Designated area sponsorship qualifications

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## **Part 6D.13—Designated area sponsorship qualifications**

<b>Item</b>	<b>Qualification</b>	<b>Number of points</b>
6D131	The applicant has been invited to apply for a Subclass 489 (Skilled—Regional) (Provisional) visa, and: (a) the nominating State or Territory government agency has not withdrawn the nomination; or (b) if the applicant is sponsored by a family member, the Minister has accepted the sponsorship	10

## **Schedule 7A—Business innovation and investment points test—attributes and points (Business Skills (Provisional) (Class EB) visas)**

(regulation 1.03)

### **Part 7A.1—Definitions**

In this Schedule:

*degree* has the meaning given by subregulation 2.26AC(6).

*diploma* has the meaning given by subregulation 2.26AC(6).

*trade qualification* has the meaning given by subregulation 2.26AC (6).

**Schedule 7A** Business innovation and investment points test—attributes and points (Business Skills (Provisional) (Class EB) visas)

**Part 7A.2** Age qualifications

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**Part 7A.2—Age qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa, the applicant was ...</b>	<b>Number of points</b>
7A21	not less than 18 and under 25	20
7A22	not less than 25 and under 33	30
7A23	not less than 33 and under 40	25
7A24	not less than 40 and under 45	20
7A25	not less than 45 and under 55	15



## **Part 7A.3—English language qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa, the applicant had ...</b>	<b>Number of points</b>
7A31	vocational English	5
7A32	proficient English	10

Note: Points are accumulated under item 7A31 or 7A32, not both.

**Schedule 7A** Business innovation and investment points test—attributes and points (Business Skills (Provisional) (Class EB) visas)

**Part 7A.4** Educational qualifications

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**Part 7A.4—Educational qualifications**

<b>Item</b>	<b>At the time of invitation to apply for the visa, the applicant had ...</b>	<b>Number of points</b>
7A41	met the requirements for: (a) the award of a trade qualification, diploma or bachelor degree by an Australian educational institution; or (b) the award of a bachelor qualification by an educational institution that is of a recognised standard	5
7A42	met the requirements for: (a) the award of a bachelor degree in business, science or technology by an Australian educational institution; or (b) the award of a bachelor qualification in business, science or technology by an educational institution that is of a recognised standard	10

Note: Points are accumulated under item 7A41 or 7A42, not both.

## **Part 7A.5—Business experience qualifications—Business Innovation stream only**

<b>Item</b>	<b>The applicant has held one or more main businesses for ...</b>	<b>Number of points</b>
7A51	not less than 4 years in the 5 years immediately before the time of invitation to apply for the visa	10
7A52	not less than 7 years in the 8 years immediately before the time of invitation to apply for the visa	15

Note: Points are accumulated under item 7A51 or 7A52, not both.

**Schedule 7A** Business innovation and investment points test—attributes and points (Business Skills (Provisional) (Class EB) visas)

**Part 7A.6** Investor experience qualifications—Investor stream only

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**Part 7A.6—Investor experience qualifications—Investor stream only**

<b>Item</b>	<b>The applicant ...</b>	<b>Number of points</b>
7A61	held eligible investments which had a value of not less than AUD100 000 for not less than 4 years immediately before the time of invitation to apply for the visa	10
7A62	held eligible investments which had a value of not less than AUD100 000 for not less than 7 years immediately before the time of invitation to apply for the visa	15

Note: Points are accumulated under item 7A61 or 7A62, not both.

## **Part 7A.7—Financial asset qualifications**

<b>Item</b>	<b>The net value of the business and personal assets of the applicant, the applicant's spouse or de facto partner, or the applicant and his or her spouse or de facto partner together, was ...</b>	<b>Number of points</b>
7A71	not less than AUD800 000 in each of the 2 fiscal years immediately before the time of invitation to apply for the visa	5
7A72	not less than AUD1 300 000 in each of the 2 fiscal years immediately before the time of invitation to apply for the visa	15
7A73	not less than AUD1 800 000 in each of the 2 fiscal years immediately before the time of invitation to apply for the visa	25
7A74	not less than AUD2 250 000 in each of the 2 fiscal years immediately before the time of invitation to apply for the visa	35

Note: Points are accumulated under one item in Part 7A.7, not more than one.

**Schedule 7A** Business innovation and investment points test—attributes and points (Business Skills (Provisional) (Class EB) visas)

**Part 7A.8** Business turnover qualifications

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**Part 7A.8—Business turnover qualifications**

<b>Item</b>	<b>The applicant had an ownership interest in one or more main businesses that had an annual turnover of ...</b>	<b>Number of points</b>
7A81	not less than AUD500 000 in at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa	5
7A82	not less than AUD1 000 000 in at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa	15
7A83	not less than AUD1 500 000 in at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa	25
7A84	not less than AUD2 000 000 in at least 2 of the 4 fiscal years immediately before the time of invitation to apply for the visa	35

Note: Points are accumulated under one item in Part 7A.8, not more than one.

## Part 7A.9—Business innovation qualifications

Item	At the time of invitation to apply for the visa ...	Number of points
7A91	<p>the applicant, or a main business of the applicant, had either or both of the following:</p> <p>(a) one or more patents that:</p> <p style="padding-left: 20px;">(i) were registered not less than 1 year before that time; and</p> <p style="padding-left: 20px;">(ii) were used in the day to day activities of the main business;</p> <p>(b) one or more registered designs that:</p> <p style="padding-left: 20px;">(i) were registered not less than 1 year before that time; and</p> <p style="padding-left: 20px;">(ii) were used in the day to day activities of the main business</p>	15
7A92	<p>the applicant, or a main business of the applicant, had one or more registered trade marks that:</p> <p>(a) were registered not less than 1 year before that time; and</p> <p>(b) were used in the day to day activities of the main business</p>	10
7A93	<p>each of the following applied:</p> <p>(a) at least one main business in which the applicant held an ownership interest operated in accordance with a formal joint venture agreement entered into with another business or businesses;</p> <p>(b) the joint venture agreement had been entered into not less than 1 year before the time of invitation to apply for the visa;</p> <p>(c) the applicant utilised his or her skills in actively participating at a senior level in the day to day management of the business</p>	5
7A94	<p>at least one main business held by the applicant derived not less than 50% of its annual turnover from export trade in at least 2 of the 4 fiscal years immediately before that time</p>	15
7A95	<p>the applicant had an ownership interest in at least one main business that:</p> <p>(a) was established not more than 5 years before that time; and</p> <p>(b) had an average annualised growth in turnover that was greater than 20% per annum over 3 continuous fiscal years; and</p> <p>(c) in at least one of the 3 fiscal years mentioned in paragraph (b) employed 10 or more employees for a total number of hours that was at least the total number of hours that would have been worked by 10 full-time employees</p>	10

**Schedule 7A** Business innovation and investment points test—attributes and points (Business Skills (Provisional) (Class EB) visas)

**Part 7A.9** Business innovation qualifications

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<b>Item</b>	<b>At the time of invitation to apply for the visa ...</b>	<b>Number of points</b>
7A96	the applicant, or at least one main business in which the applicant held an ownership interest: (a) had received a grant that: (i) was awarded for the purposes of early phase start up of a business, product commercialisation, business development or business expansion; and (ii) was at least AUD10 000; and (iii) was awarded by a government body in the applicant's home country; and (iv) had been received not more than 4 years immediately before that time; or (b) had received venture capital funding of at least AUD100 000 not more than 4 years before the time of the invitation for the purposes of early phase start up of a business, product commercialisation, business development or business expansion	10

Note: Points may be accumulated under more than one item in Part 7A.9, but points may not be accumulated more than once for each item in the Part.



## **Part 7A.10—Special endorsement qualifications**

<b>Item</b>	<b>At the time of the invitation to apply for the visa ...</b>	<b>Number of points</b>
7A101	the nominating State or Territory government agency had determined that the business proposed by the applicant was of unique and important benefit to the State or Territory where the nominating government agency is located	10

## Schedule 8—Visa conditions

(subregulations 2.05(1) and (2))

Note 1: Whether a visa of a particular class may be made subject to any of these conditions depends on the relevant provision in Schedule 2.

Note 2: As to cancellation for breaches of conditions, see the Act, ss. 41 and 116 to 119.

- 8101 The holder must not engage in work in Australia.
- 8102 The holder must not engage in work in Australia (other than in relation to the holder's course of study or training).
- 8103 The holder must not receive salary in Australia without the permission in writing of the Secretary.
- 8104 (1) The holder must not engage in work for more than 40 hours a fortnight while the holder is in Australia.
- (2) If the holder is a member of the family unit of a person who satisfies the primary criteria for the grant of a student visa, the holder must not engage in work in Australia until the person who satisfies the primary criteria has commenced a course of study.
- (3) If the course of study mentioned in subclause (2) is for the award of a masters or doctoral degree, then despite subclause (1), the holder may engage in work for more than 40 hours a fortnight while the holder is in Australia.
- (4) In this clause:  
*fortnight* means the period of 14 days commencing on a Monday.
- 8105 (1A) The holder must not engage in any work in Australia before the holder's course of study commences.
- (1) Subject to subclause (2), the holder must not engage in work in Australia for more than 40 hours a fortnight during any fortnight when the holder's course of study or training is in session.
- (2) Subclause (1) does not apply:
- (a) to work that was specified as a requirement of the course when the course particulars were entered in the Commonwealth Register of Institutions and Courses for Overseas Students; and
- (b) in relation to a student visa granted in relation to a masters degree by research or doctoral degree if the holder has commenced the masters degree by research or doctoral degree.
- (3) In this clause:  
*fortnight* means the period of 14 days commencing on a Monday.

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- 8106 The holder must engage in work in Australia only if the work is relevant to the conduct of the business, or performance of the tasks, specified in the visa application.
- 8107 (1) If the visa is not a visa mentioned in subclause (3) or (4), and was granted to enable the holder to be employed in Australia, the holder must not:
- (a) cease to be employed by the employer in relation to which the visa was granted; or
  - (b) work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; or
  - (c) engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted.
- (2) If the visa is not a visa mentioned in subclause (3) or (4), and subclause (1) does not apply, the holder must not:
- (a) cease to undertake the activity in relation to which the visa was granted; or
  - (b) engage in an activity inconsistent with the activity in relation to which the visa was granted; or
  - (c) engage in work for another person or on the holder's own account inconsistent with the activity in relation to which the visa was granted.
- (3) If the visa is, or the last substantive visa held by the applicant was, a Subclass 457 (Temporary Work (Skilled)) visa that was granted on the basis that the holder met the requirements of subclause 457.223(2) or (4):
- (a) the holder:
    - (i) must work only in the occupation listed in the most recently approved nomination for the holder; and
    - (ii) unless the circumstances in subclause (3A) apply:
      - (A) must work only for the party to a labour agreement or former party to a labour agreement who nominated the holder in the most recently approved nomination; or
      - (B) if the sponsor is, or was, a standard business sponsor who was lawfully operating a business in Australia at the time of the sponsor's approval as a standard business sponsor, or at the time of the last approval of a variation to the sponsor's term of approval as a standard business sponsor—must work only in a position in the business of the sponsor or an associated entity of the sponsor; or
      - (C) if the sponsor is or was a standard business sponsor who was not lawfully operating a business in Australia, and was lawfully operating a business outside Australia, at the time of the sponsor's approval as a standard business sponsor, or at the time of the last approval of a variation to the sponsor's term of approval as a standard business sponsor—must work only in a position in the business of the sponsor; and
  - (aa) subject to paragraph (c), the holder must:
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- (i) if the holder was outside Australia when the visa was granted—commence work within 90 days after the holder’s arrival in Australia; and
- (ii) if the holder was in Australia when the visa was granted—commence work within 90 days after the holder’s visa was granted; and
- (b) if the holder ceases employment—the period during which the holder ceases employment must not exceed 60 consecutive days; and
- (c) if the holder is required to hold a licence, registration or membership that is mandatory to perform the occupation nominated in relation to the holder, in the location where the holder’s position is situated—the holder:
  - (i) must hold the licence, registration or membership while the holder is performing the occupation; and
  - (ii) if the holder was outside Australia when the visa was granted—the holder must hold that licence, registration or membership within 90 days after the holder’s arrival in Australia; and
  - (iii) if the holder was in Australia when the visa was granted—the holder must hold that licence, registration or membership within 90 days after the holder’s visa was granted; and
  - (iv) must notify the Department, in writing as soon as practicable if an application for the licence, registration or membership is refused; and
  - (v) must comply with each condition or requirement to which the licence, registration or membership is subject; and
  - (vi) must not engage in work that is inconsistent with the licence, registration or membership, including any conditions or requirements to which the licence, registration or membership is subject; and
  - (vii) must notify the Department, in writing as soon as practicable if the licence, registration or membership ceases to be in force or is revoked or cancelled.

(3A) For subparagraph (3)(a)(ii), the circumstances are that:

- (a) if the nomination was made before 1 July 2010—the holder’s occupation is specified in an instrument in writing for subparagraph 2.72(10)(d)(ii) or (iii); or
- (aa) if the nomination is made on or after 1 July 2010—the holder’s occupation is specified in an instrument in writing for subparagraph 2.72(10)(e)(ii) or (iii); or
- (b) the holder is continuing to work for the sponsor, or the associated entity of the sponsor, for the purpose of fulfilling a requirement under a law relating to industrial relations and relating to the giving of notice.

(4) If the visa is:

- (a) a Subclass 401 (Temporary Work (Long Stay Activity)) visa; or
- (b) a Subclass 402 (Training and Research) visa; or
- (ba) a Subclass 420 (Temporary Work (Entertainment)) visa;

the holder must not:

- (c) cease to engage in the most recently nominated occupation, program or activity in relation to which the holder is identified; or

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- (d) engage in work or an activity that is inconsistent with the most recently nominated occupation, program or activity in relation to which the holder is identified; or
  - (e) engage in work or an activity for an employer other than the employer identified in accordance with paragraph 2.72A(7)(a) as in force before 19 November 2016 (subject to subregulation 2.72A(8) as in force before that day) in the most recent nomination in which the holder is identified.
- (5) If the visa is a subclass 407 (Training) visa, the holder must not:
- (a) cease to engage in the most recently nominated program in relation to which the holder is identified; or
  - (b) engage in work or an activity that is inconsistent with the most recently nominated program in relation to which the holder is identified; or
  - (c) engage in work or an activity for an employer other than an employer identified in accordance with paragraph 2.72A(8)(a) (subject to subregulation 2.72A(9)) in the most recent nomination in which the holder is identified.
- 8108 The holder must not be employed in Australia by any 1 employer for more than 3 months, without the prior permission in writing of the Secretary.
- 8109 The holder must not change details of times and places of engagements specified in the application to be undertaken in Australia during the visa period, without the prior permission in writing of the Secretary.
- 8110 The holder:
- (a) must not engage in work in Australia except in the household of the employer in relation to whom the visa was granted; and
  - (b) must not work in a position or occupation inconsistent with the position or occupation in relation to which the visa was granted; and
  - (c) must not engage in work for another person or on the holder's own account while undertaking the employment in relation to which the visa was granted; and
  - (d) must not cease to be employed by the employer in relation to which the visa was granted, unless paragraph (e) applies; and
  - (e) except with the written permission of the Foreign Minister, must not remain in Australia after the permanent departure of that employer.
- 8111 The holder must not:
- (a) perform work in Australia except in the household of the employer who is the holder's sponsor in relation to the visa; or
  - (b) remain in Australia after the permanent departure of that employer.
- 8112 The holder must not engage in work in Australia that might otherwise be carried out by an Australian citizen or an Australian permanent resident.
- 8113 The holder must not work in Australia otherwise than as a member of the crew of a non-military ship.
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- 8114 The holder must not work in Australia otherwise than as a member of the crew of a superyacht.
- 8115 The holder must not work in Australia other than by engaging in a business visitor activity.
- 8116 The holder must not work in Australia other than by engaging in an activity specified in a legislative instrument made by the Minister for this clause.
- 8117 The holder must not work in Australia other than as a member of the crew on either or both of the following:
- (a) the flight on which the holder leaves Australia;
  - (b) one flight from a proclaimed airport to the proclaimed airport from which the holder leaves Australia.
- 8118 The holder must not work in Australia other than as a member of the crew on one or more of the following:
- (a) the flight on which the holder travels to Australia;
  - (b) one flight from the proclaimed airport at which the holder enters Australia to another proclaimed airport;
  - (c) the flight on which the holder leaves Australia;
  - (d) one flight from a proclaimed airport to the proclaimed airport from which the holder leaves Australia.
- 8201 (1) While in Australia, the holder must not engage, for more than 3 months, in any studies or training.
- (2) However, subclause (1) does not apply to a visa mentioned in the table.

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<b>Item</b>	<b>Visa</b>
1	Subclass 590 (Student Guardian) visa in relation to which the holder is undertaking an ELICOS of less than 20 hours per week
1A	Subclass 602 (Medical Treatment) visa in relation to which the holder: <ul style="list-style-type: none"><li>(a) is under 18; and</li><li>(b) has experienced a change in circumstances while in Australia; and</li><li>(c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances</li></ul>
2	Subclass 675 (Medical Treatment (Short Stay)) visa in relation to which the holder: <ul style="list-style-type: none"><li>(a) is under 18; and</li><li>(b) has experienced a change in circumstances while in Australia; and</li><li>(c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances</li></ul>
3	Subclass 685 (Medical Treatment (Long Stay)) visa in relation to which the holder: <ul style="list-style-type: none"><li>(a) is under 18; and</li><li>(b) has experienced a change in circumstances while in Australia; and</li><li>(c) has the written permission of the Minister to engage for more than 3 months in any studies or training because of compelling and compassionate circumstances</li></ul>

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- 8202 (1) The holder must be enrolled in a full-time course of study or training if the holder is:
- (a) a Defence student; or
  - (b) a Foreign Affairs student; or
  - (c) a secondary exchange student.
- (2) A holder not covered by subclause (1):
- (a) must be enrolled in a full-time registered course; and
  - (b) subject to subclause (3), must maintain enrolment in a registered course that, once completed, will provide a qualification from the Australian Qualifications Framework that is at the same level as, or at a higher level than, the registered course in relation to which the visa was granted; and
  - (c) must ensure that neither of the following subparagraphs applies in respect of a registered course undertaken by the holder:
    - (i) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course progress for section 19 of the *Education Services for Overseas Students Act 2000* and the relevant standard of the national code made by the Education Minister under section 33 of that Act;
    - (ii) the education provider has certified the holder, for a registered course undertaken by the holder, as not achieving satisfactory course attendance for section 19 of the *Education Services for Overseas Students Act 2000* and the relevant standard of the national code made by the Education Minister under section 33 of that Act.
- (3) A holder is taken to satisfy the requirement set out in paragraph (2)(b) if the holder:
- (a) is enrolled in a course at the Australian Qualifications Framework level 10; and
  - (b) changes their enrolment to a course at the Australian Qualifications Framework level 9.
- 8203 The holder must not change his or her course of study, or thesis or research topic, unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.
- 8204 The holder must not undertake or change a course of study or research, or thesis or research topic, for:
- (a) a graduate certificate, a graduate diploma, a master's degree or a doctorate; or
  - (b) any bridging course required as a prerequisite to a course of study or research for a master's degree or a doctorate;
- unless approval is given by the Minister after the Minister has obtained an assessment from the competent Australian authorities that the holder is not likely to be directly or indirectly a risk to Australian national security.
- 8207 The holder must not engage in any studies or training in Australia.
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- 8301 After entry to Australia, the holder must satisfy relevant public interest criteria before the visa ceases.
- 8302 After entry to Australia, all relevant members of the family unit must satisfy the relevant public interest criteria before the visa ceases.
- 8303 The holder must not become involved in activities disruptive to, or violence threatening harm to, the Australian community or a group within the Australian community.
- 8401 The holder must report:  
(a) at a time or times; and  
(b) at a place;  
specified by the Minister for the purpose.
- 8402 The holder must report:  
(a) within 5 working days of grant, to an office of Immigration; and  
(b) to that office on the first working day of every week after reporting under paragraph (a).
- 8501 The holder must maintain adequate arrangements for health insurance while the holder is in Australia.
- 8502 The holder of the visa must not enter Australia before the entry to Australia of a person specified in the visa.
- 8503 The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa, while the holder remains in Australia.
- 8504 The holder must enter Australia as the holder of the visa to which the condition applies before a date specified by the Minister.
- 8505 The holder must continue to live at the address specified by the holder before grant of the visa.
- 8506 The holder must notify Immigration at least 2 working days in advance of any change in the holder's address.
- 8507 The holder must, within the period specified by the Minister for the purpose:  
(a) pay; or  
(b) make an arrangement that is satisfactory to the Minister to pay;  
the costs (within the meaning of Division 10 of Part 2 of the Act) of the holder's detention.
- 8508 The holder must make a valid application for a visa of a class that can be granted in Australia, within the time specified by the Minister for the purpose.  
Note: For the meaning of *valid application* see s 46 of the Act. Broadly, a valid application is one that is formally in order for consideration, not necessarily one that can be granted.
- 8509 Within 5 working days after the date of grant, the holder must:
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- (a) make a valid application for a substantive visa; or
  - (b) show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8510 Within the time specified by the Minister for the purpose, the holder must, either:
- (a) show an officer a passport that is in force; or
  - (b) make an arrangement satisfactory to the Minister to obtain a passport.
- 8511 Within the time specified by the Minister for the purpose, the holder must, show an officer a ticket for travel to a country other than Australia that the Minister is satisfied will allow the holder to enter on his or her arrival.
- 8512 The holder must leave Australia by the date specified by the Minister for the purpose.
- 8513 The holder must notify Immigration of his or her residential address within 5 working days of grant.
- 8514 During the visa period of the visa, there must be no material change in the circumstances on the basis of which it was granted.
- 8515 The holder of the visa must not marry or enter into a de facto relationship before entering Australia.
- 8516 The holder must continue to be a person who would satisfy the primary or secondary criteria, as the case requires, for the grant of the visa.
- 8517 The holder must maintain adequate arrangements for the education of any school-age dependant of the holder who is in Australia for more than 3 months as the holder of a student visa (as a person who has satisfied the secondary criteria).
- 8518 Adequate arrangements must be maintained for the education of the holder while he or she is in Australia.
- 8519 The holder must enter into the marriage in relation to which the visa was granted within the visa period of the visa.
- 8520 The relevant person who holds a Subclass 300 visa on the basis of having satisfied the primary criteria must enter into the marriage in relation to which that visa was granted within the visa period of that visa.
- 8522 The holder must leave Australia not later than the time of departure of the person:
- (a) who has satisfied the primary criteria; and
  - (b) of whose family unit the holder is a member.
- 8523 Each person who:
- (a) is a member of the family unit of the holder (being a spouse or de facto partner of the holder or an unmarried child of the holder who has not turned 18); and
  - (b) has satisfied the secondary criteria; and
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- (c) holds a student visa because of paragraphs (a) and (b);  
must leave Australia not later than the time of departure of the holder.
- 8525 The holder must leave Australia by a specified means of transport on a specified day or within a specified period.
- 8526 The holder must notify the Secretary in writing, not earlier than 7 days before the day the visa ceases to be in effect, and not later than that day, of the holder's place of residence in Australia by posting the notification to the Central Office of Immigration in the Australian Capital Territory.
- 8527 The holder must be free from tuberculosis at the time of travel to, and entry into, Australia.
- 8528 The holder must not have one or more criminal convictions, for which the sentence or sentences (whether served or not) are for a total period of 12 months duration or more, at the time of travel to, and entry into, Australia.
- 8529 The holder must, after entering Australia:
- (a) undergo a medical examination carried out by:
    - (i) a Commonwealth Medical Officer; or
    - (ii) a medical practitioner approved by the Minister; or
    - (iii) a medical practitioner employed by an organisation approved by the Minister; and
  - (b) undergo a chest x-ray examination conducted by a medical practitioner who is qualified as a radiologist in Australia, unless the holder:
    - (i) is under 11 years of age and is not a person in respect of whom a Commonwealth Medical Officer has requested such an examination; or
    - (ii) is a person:
      - (A) who is confirmed by a Commonwealth Medical Officer to be pregnant; and
      - (B) who has been examined for tuberculosis by a chest clinic officer employed by a health authority of a State or Territory; and
      - (C) who has signed an undertaking to place herself under the professional supervision of a health authority in a State or Territory and to undergo any necessary treatment; and
      - (D) whom the Minister is satisfied should not be required to undergo a chest x-ray examination at this time.
- 8530 The holder must not deviate from the organised tour referred to in clause 600.252 of Schedule 2.
- 8531 The holder must not remain in Australia after the end of the period of stay permitted by the visa.
- 8532 If the holder has not turned 18:
- (a) the holder must stay in Australia with a person who is:

- (i) a parent of the holder or a person who has custody of the holder; or
- (ii) a relative of the holder who:
  - (A) is nominated by a parent of the holder or a person who has custody of the holder; and
  - (B) has turned 21; and
  - (C) is of good character; or
- (b) the arrangements for the holder's accommodation, support and general welfare must be approved by the education provider for the course to which the holder's visa relates, and the holder must not enter Australia before the day nominated by the education provider as the day on which those arrangements are to commence; or
- (c) in the case that the holder is a Defence student—both:
  - (i) the arrangements for the holder's accommodation, support and general welfare must be approved by the Defence Minister; and
  - (ii) the holder must not enter Australia before the day those arrangements are to commence; or
- (d) in the case that the holder is a Foreign Affairs student—both:
  - (i) the arrangements for the holder's accommodation, support and general welfare must be approved by the Foreign Minister; and
  - (ii) the holder must not enter Australia before the day those arrangements are to commence.

8533 The holder must:

- (a) in the case of a holder who was outside Australia when the visa was granted, notify the education provider of the holder's residential address in Australia within 7 days after arriving in Australia; and
- (b) in all cases:
  - (i) notify the education provider of any change in the holder's residential address in Australia within 7 days after the change occurs; and
  - (ii) notify his or her current education provider of a change of education provider within 7 days after the holder receives:
    - (A) a confirmation of enrolment from the new education provider; or
    - (B) if no confirmation of enrolment is required to be sent, or if a failure of electronic transmission has prevented an education provider from sending a confirmation of enrolment—evidence that the applicant has been enrolled by the new education provider.

8534 The holder will not be entitled to be granted a substantive visa, other than:

- (a) a protection visa; or
- (b) a Subclass 485 (Temporary Graduate) visa; or
- (c) a Subclass 590 (Student Guardian) visa;

while the holder remains in Australia.

8535 The holder will not be entitled to be granted a substantive visa, other than:

- (a) a protection visa; or
  - (b) a Student (Temporary) (Class TU) visa that is granted to the holder on the basis of support from the Commonwealth government or a foreign government;while the holder remains in Australia.
- 8536 The holder must not discontinue, or deviate from, the professional development program in relation to which the visa was granted.
- 8537 (1) While the nominating student (within the meaning of Part 590 of Schedule 2) in relation to the holder is in Australia, the holder must reside in Australia.
- (2) While the holder is in Australia, the holder must:
  - (a) stay with the nominating student (within the meaning of Part 590 of Schedule 2) in relation to the holder; and
  - (b) provide appropriate accommodation and support for the nominating student; and
  - (c) provide for the general welfare of the nominating student.
- 8538 If the holder leaves Australia without the nominating student (within the meaning of Part 590 of Schedule 2) in relation to the holder, the holder must first give to the Minister evidence that:
  - (a) there are compelling or compassionate reasons for doing so; and
  - (b) the holder has made alternative arrangements for the accommodation, support and general welfare of the nominating student until the holder's return to Australia; and
  - (c) if the nominating student has not turned 18, the alternative arrangements are approved by the education provider for the course to which the nominating student's visa relates.
- 8539 While the holder is in Australia, the holder must live, study and work only in an area specified by the Minister in an instrument in writing for item 6A1001 of Schedule 6A or item 6D101 of Schedule 6D, as in force:
  - (a) when the visa was granted; or
  - (b) if the holder has held more than 1 visa that is subject to this condition—when the first of those visas was granted.
- 8540 The holder will not, after entering Australia, be entitled to be granted a substantive visa, other than a protection visa or a Subclass 462 (Work and Holiday) visa, while the holder remains in Australia.
- 8541 The holder:
  - (a) must do everything possible to facilitate his or her removal from Australia; and
  - (b) must not attempt to obstruct efforts to arrange and effect his or her removal from Australia.

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- 8542 The holder must make himself or herself available for removal from Australia in accordance with instructions given to the holder by Immigration for the purpose of that removal.
- 8543 The holder must attend at a place, date and time specified by Immigration in order to facilitate efforts to arrange and effect his or her removal from Australia.
- 8547 The holder must not be employed by any 1 employer for more than 6 months, without the prior permission in writing of the Secretary.
- 8548 The holder must not engage in any studies or training in Australia for more than 4 months.
- 8549 (1) Unless subclause (2) applies, while the holder is in Australia, the holder must live, study and work only in a designated area, as in force:
- (a) when the visa was granted; or
  - (b) if the holder has held more than 1 visa that is subject to this condition—when the first of those visas was granted.
- Note: *designated area* is defined in regulation 1.03
- (2) For a visa granted on the basis of satisfaction of clause 159.214 or 159.311 of Schedule 2, while the holder is in Australia, the holder must live, study and work only in Norfolk Island, apart from any period during the whole of which the visa holder:
- (a) has not turned 25; and
  - (b) is a dependent child of a person who is ordinarily resident in Norfolk Island; and
  - (c) lives elsewhere in Australia for the purpose of study; and
  - (d) meets the requirements mentioned in condition 8105 (which relates to students engaging in work).
- Note: Condition 8105 is not imposed on the visa.
- 8550 The holder must notify the Minister of any change in the holder's personal details, including a change to any of the following contact information:
- (a) the holder's name;
  - (b) an address of the holder;
  - (c) a phone number of the holder;
  - (d) an email address of the holder;
  - (e) an online profile used by the holder;
  - (f) a user name of the holder;
- not less than 2 working days before the change is to occur.
- 8551 (1) The holder must obtain the Minister's approval before taking up employment in the following occupations, or occupations of a similar kind:
- (a) occupations that involve the use of, or access to, chemicals of security concern;
  - (b) occupations in the aviation or maritime industries;
  - (c) occupations at facilities that handle security-sensitive biological agents.
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(2) In this clause:

**chemicals of security concern** means chemicals specified by the Minister in an instrument in writing for this definition.

Note: The Minister's instrument will refer to chemicals that have been identified, by the Council of Australian Governments, as chemicals of security concern. Without limiting what the Council might identify, the chemicals may include:

- (a) industrial chemicals, including chemicals used in the retail, pharmaceutical or pool and spa sectors, that could be diverted from their lawful use to other purposes such as terrorist-related activities; and
- (b) agricultural and veterinary chemicals that could be diverted from their lawful use to other purposes, including terrorist-related activities.

- 8552 The holder must notify the Minister of any change in the holder's employment details, not less than 2 working days before the change is to occur.
- 8553 The holder must not become involved in activities that are prejudicial to security (within the meaning of section 4 of the *Australian Security Intelligence Organisation Act 1979*).
- 8554 (1) The holder must not acquire any of the following goods:
  - (a) weapons;
  - (b) explosives;
  - (c) material or documentation that provides instruction on the use of weapons or explosives.
- (2) In this clause:  
**weapon** means a thing made or adapted for use for inflicting bodily injury.
- 8555 The holder must obtain the Minister's approval before undertaking the following activities, or activities of a similar kind:
  - (a) flight training;
  - (b) flying aircraft.
- 8556 The holder must not communicate or associate with:
  - (a) an entity listed under Part 4 of the *Charter of the United Nations Act 1945*; or
  - (b) an organisation prescribed by the *Criminal Code Regulations 2002*.
- 8557 The holder must hold for the whole of the visa period:
  - (a) if the visa was granted on the basis of a complying investment within the meaning of regulation 5.19B as in force at a particular time—a complying investment within the meaning of regulation 5.19B as in force at that time; or
  - (b) if the visa was granted on the basis of a complying significant investment within the meaning of regulation 5.19C as in force at a particular time—a complying significant investment within the meaning of regulation 5.19C as in force at that time; or
  - (c) if the visa was granted on the basis of a complying premium investment within the meaning of regulation 5.19D as in force at a particular time—a
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complying premium investment within the meaning of regulation 5.19D as in force at that time.

- 8558 The holder must not stay in Australia for more than 12 months in any period of 18 months.
- 8559 The holder must not enter the country by reference to which:
- (a) the holder; or
  - (b) for a member of the family unit of another holder—the other holder;
- was found to be a person to whom Australia has protection obligations unless the Minister has approved the entry in writing.
- 8560 (1) The holder must obtain the Minister’s approval before acquiring chemicals of security concern.
- (2) In this clause:
- chemicals of security concern*** means chemicals specified by the Minister in an instrument in writing for this definition.
- Note: The Minister’s instrument will refer to chemicals that have been identified, by the Council of Australian Governments, as chemicals of security concern. Without limiting what the Council might identify, the chemicals may include:
- (a) industrial chemicals, including chemicals used in the retail, pharmaceutical or pool and spa sectors, that could be diverted from their lawful use to other purposes such as terrorist-related activities; and
  - (b) agricultural and veterinary chemicals that could be diverted from their lawful use to other purposes, including terrorist-related activities.
- 8561 If the holder is directed by the Minister to attend an interview that relates to the holder’s visa (including an interview with the Australian Security Intelligence Organisation), the holder must comply with the direction.
- 8562 (1) The holder must not take up employment in:
- (a) occupations that involve the use of, or access to, weapons or explosives; or
  - (b) occupations of a similar kind.
- (2) In this clause:
- weapon*** means a thing made or adapted for use for inflicting bodily injury.
- 8563 (1) The holder must not undertake the following activities, or activities of a similar kind:
- (a) using or accessing weapons or explosives;
  - (b) participating in training in the use of weapons or explosives;
  - (c) possessing or accessing material or documentation that provides instruction on the use of weapons or explosives.
- (2) In this clause:
- weapon*** means a thing made or adapted for use for inflicting bodily injury.
- 8564 The holder must not engage in criminal conduct.

- 8565 The holder must notify Immigration of any change in the holder's residential address within 28 days after the change occurs.
- 8566 If the person to whom the visa is granted has signed a code of behaviour that is in effect for the visa, the holder must not breach the code.
- Note 1: Some visas may be granted with or without an application (for example, see regulation 2.25).
- Note 2: The requirement to sign a code of behaviour may be imposed by public interest criterion 4022 or in accordance with section 195A of the Act.
- 8570 The holder must not:
- (a) enter a country by reference to which:
    - (i) the holder was found to be a person in respect of whom Australia has protection obligations; or
    - (ii) for a member of the family unit of another holder—the other holder was found to be a person in respect of whom Australia has protection obligations; or
  - (b) enter any other country unless:
    - (i) the Minister is satisfied that there are compassionate or compelling circumstances justifying the entry; and
    - (ii) the Minister has approved the entry in writing.
- 8571 The holder must maintain an ongoing relationship with the nominating State or Territory government agency or the government of the State or Territory in which the agency is (or was) located.
- 8572 If requested in writing by the Minister to do so, the holder must undergo a medical assessment carried out by any of the following:
- (a) a Medical Officer of the Commonwealth;
  - (b) a medical practitioner approved by the Minister;
  - (c) a medical practitioner employed by an organisation approved by the Minister.
- 8573 The holder must not stay in Australia for more than 12 months in any period of 24 months.



## Schedule 9—Special entry and clearance arrangements

(regulations 3.01, 3.03, 3.06 and 3.06A)

### Part 1—Persons to whom special arrangements apply under section 166 of the Act

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
1	Members of the Royal Family	Passport	Yes
2	Members of the Royal party	Passport	Yes
4	SOFA forces members who arrive at an airport that is not a proclaimed port	Military identity documents and movement orders	No
5	SOFA forces members who arrive at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
6	SOFA forces civilian component members who arrive at an airport that is not a proclaimed port	Passport and certificate that the person is a member of the civilian component of the armed forces of the relevant country	No
7	SOFA forces civilian component members who arrive at a proclaimed port	Passport and certificate that the person is a member of the civilian component of the armed forces of the relevant country	Yes
8	Asia-Pacific forces members arriving at an airport that is not a proclaimed port	Military identity documents and movement orders	No
9	Asia-Pacific forces members arriving at an airport that is a proclaimed port	Military identity documents and movement orders	Yes
10	Commonwealth forces members who arrive at an airport that is not a proclaimed port	Military identity documents and movement orders	No
11	Commonwealth forces members who arrive at an airport that is a proclaimed port	Military identity documents and movement orders	Yes

**Schedule 9** Special entry and clearance arrangements

**Part 1** Persons to whom special arrangements apply under section 166 of the Act

<b>Column 1 Item</b>	<b>Column 2 Class of person</b>	<b>Column 3 Evidence of identity</b>	<b>Column 4 Passenger card required?</b>
12	Foreign armed forces dependants who arrive at an airport that is not a proclaimed port	A passport and either: (a) movement orders; or (b) a certificate that the person is a spouse, de facto partner or dependant of a member of the armed forces, or the civilian component of the armed forces of the relevant country, and is accompanying or joining that member	No
13	Foreign armed forces dependants who arrive at an airport that is a proclaimed port	A passport and either: (a) movement orders; or (b) a certificate that the person is a spouse, de facto partner or dependant of a member of the armed forces, or the civilian component of the armed forces of the relevant country, and is accompanying or joining that member	Yes
14	Airline crew members	Passport and either: (a) a valid airline identity card; or (b) for a person who is an aircraft safety inspector: (i) a valid government identity document showing that he or she is employed by a foreign government; or (ii) an ICAO Safety Inspector Certificate	No
15	Airline positioning crew members	Passport and a letter from the person's employer certifying that the person is an aircrew member and setting out the purpose of travel and the arrangements for the person to leave Australia	Yes
17	Non-citizen in respect of whom the Minister has made a declaration under paragraph 33(2)(b) of the Act	Passport	Yes
21	Persons holding an Electronic Travel Authority (Class UD) visa	A passport that is an ETA-eligible passport in relation to the Subclass of the Electronic Travel Authority (Class UD) visa held by the person	Yes

Special entry and clearance arrangements **Schedule 9**  
Persons to whom special arrangements apply under section 166 of the Act **Part 1**

Column 1 Item	Column 2 Class of person	Column 3 Evidence of identity	Column 4 Passenger card required?
22	Person referred to in paragraph 1223A(1)(c) of Schedule 1, as in force before 23 March 2013, who holds a Temporary Business Entry (Class UC) visa	(a) a passport of a designated APEC economy; or (b) in the case of a permanent resident of Hong Kong—any valid passport	Yes
22A	Persons holding a Subclass 600 (Visitor) visa granted on the basis of an application which was taken to have been validly made under regulation 2.07AA	(a) a passport of a designated APEC economy; or (b) in the case of a permanent resident of Hong Kong—any valid passport	Yes
23	Persons holding: (a) a visa granted on the basis of an Internet application; and (b) either: (i) a passport of a kind specified by the Minister in an instrument in writing for paragraph 1218(3)(d) of Schedule 1, as in force before 23 March 2013; or (ii) a passport of a kind specified by the Minister in an instrument in writing for subparagraph 1218(1)(b)(ii) of Schedule 1; or (iii) a passport of a kind specified by the Minister in an instrument in writing for item 1 of the table in subitem 1236(4) of Schedule 1; or (iv) a working holiday eligible passport within the meaning of subitem 1225(5) of Schedule 1	The passport mentioned in column 2	Yes
24	Persons holding a Visitor (Class TV) visa	A passport that is an eVisitor eligible passport in relation to the Subclass of the Visitor (Class TV) visa held by the person	Yes

Note: Paragraph 33(2)(b) of the Act authorises the Minister to declare that persons, or persons in a particular class, are taken to have been granted special purpose visas.

## Part 2—Persons not required to comply with section 166 of the Act

- 1 Transit passengers:
- (a) who belong to a class of persons specified in a legislative instrument made by the Minister for the purposes of paragraph 2.40(1)(n); and
  - (b) who do not leave the airport transit lounge except to continue their journey
- 1A A person:
- (a) to whom section 10 applies; and
  - (b) who has not left the migration zone.
- Note: Section 10 of the Act provides that a child who was born in the migration zone, and was a non-citizen when he or she was born, is taken to have entered Australia at birth. This item ensures that a newborn child is not required to give evidence of identity at the time of birth in the migration zone.
- 2 Persons visiting Macquarie Island, if permission for the visit has been granted in writing before the visit by the Secretary to the Department of Primary Industries, Parks, Water and Environment of the State of Tasmania
- 3 Australian citizens who form part of an Australian National Antarctic Research Expedition from an Australian Antarctic station, and who are returning to Australia on board a vessel owned or chartered by the Commonwealth
- 4 SOFA forces members who:
- (a) enter Australia at a seaport; and
  - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
  - (c) are travelling to Australia in the course of their duty
- 5 Asia-Pacific forces members who:
- (a) enter Australia at a seaport; and
  - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
  - (c) are travelling to Australia in the course of their duty
- 6 Commonwealth forces members who:
- (a) enter Australia at a seaport; and
  - (b) hold military identity documents and movement orders issued from an official source of the relevant country; and
  - (c) are travelling to Australia in the course of their duty
- 7 Foreign naval forces members, if permission to enter the migration zone for the vessel of which they form part of the complement was given in advance by the Australian Government
- 8 Guests of Government
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- 9 Indonesian traditional fishermen who have prescribed status under regulation 2.40
- 10 A designated foreign dignitary  
Note: See regulation 3.06A.
- 11 A person:  
(a) who is an Australian citizen, or holds one of the following types of visa that is in effect:  
(i) a permanent visa;  
(ii) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa;  
(iii) a Subclass 457 (Temporary Work (Skilled)) visa; and  
(b) who is taken to enter Australia because paragraph 9A(3)(c) of the Act is satisfied in respect of the person; and  
(c) whose entry has been reported in writing to Immigration

## Schedule 10—Prescribed forms

(regulation 1.03)

### Form 1—Search Warrant—Valuables

(subregulation 5.32 (1))

COMMONWEALTH OF AUSTRALIA

*Migration Act 1958*

Search Warrant—Valuables

To *(insert name of officer and capacity by virtue of which he or she is an officer within the meaning of the Act)*.

I, *(name)*, the Secretary [*or a delegate of the Secretary*] of the Department of Immigration and Border Protection, authorise you, *(insert name of officer)*, under subsection 223(14) of the *Migration Act 1958* (the Act), at any time of the day or night, with such assistance, and using such reasonable force, as you think necessary:

- (a) to enter and search any building, premises, vehicle, vessel or place in which you have reasonable cause to believe there may be found any valuables to which a notice in force under section 223 of the Act relates; and
- (b) to seize any such valuables found in the course of such a search;

and for the purposes of the exercise of the foregoing powers, to stop any vehicle.

And for doing so this shall be your sufficient warrant.

This warrant remains in force for the period commencing on \_\_\_\_\_ 20  
and ending on \_\_\_\_\_ 20 .

Dated \_\_\_\_\_ 20 .

Secretary [*or Delegate*]

## Form 2—Search warrant

(subregulation 5.32 (2))

COMMONWEALTH OF AUSTRALIA

*Migration Act 1958*

Search Warrant

To *(insert name of officer and capacity by virtue of which he or she is an officer within the meaning of the Act)*.

I, *(name)*, the Secretary [*or a delegate of the Secretary*] of the Department of Immigration and Border Protection or the Australian Border Force Commissioner [*or a delegate of the Australian Border Force Commissioner*], authorise you, under subsection 251(4) of the *Migration Act 1958* (the Act), at any time of the day or night, with such assistance as you think necessary, to enter and search any building, premises, vehicle, vessel or place in which you have reasonable cause to believe there may be found:

- (a) an unlawful non-citizen, a removee or a deportee, within the meaning of the Act; or
- (b) a person to whom a temporary visa under the Act has been issued subject to a condition with respect to the work to be performed by that person; or
- (c) any document, book or paper relating to the entry or proposed entry into Australia of a person in circumstances in which that person:
  - (i) would have become a prohibited immigrant within the meaning of the Act as in force from time to time before the commencement of the *Migration Amendment Act 1983*; or
  - (ii) would have become a prohibited non-citizen within the meaning of the Act as in force from time to time after the commencement of the *Migration Amendment Act 1983* but before the commencement of section 4 of the *Migration Legislation Amendment Act 1989*; or
  - (iii) would have become an illegal entrant within the meaning of the Act as in force from time to time after the commencement of section 4 of the *Migration Legislation Amendment Act 1989* but before commencement of section 7 of the *Migration Reform Act 1992*; or
  - (iv) would have become, or would become, an unlawful non-citizen; or
- (d) any passport or document of identity of, or any ticket for the conveyance from a place within Australia to a place outside Australia of, an unlawful non-citizen, a removee or a deportee, within the meaning of the Act;

and to seize any such document, book, paper, passport, document of identity or ticket, as the case may be, and to impound and detain it for such time as you think necessary, and for the purposes of the exercise of the foregoing powers to stop any vessel or vehicle and to use such reasonable force as is necessary.

And for doing so this shall be your sufficient warrant.

This warrant remains in force for the period commencing on \_\_\_\_\_ 20  
and ending on \_\_\_\_\_ 20 .

**Schedule 10** Prescribed forms  
**Form 2** Search warrant

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Dated                                 20 .

.....

Secretary or Australian Border Force  
Commissioner [*or* Delegate]



**Form 3—Document issued in accordance with Annex 9 of the ICAO Convention on International Civil Aviation**

(regulation 5.33)

COMMONWEALTH OF AUSTRALIA

*Migration Act 1958*

DOCUMENT ISSUED IN ACCORDANCE WITH ANNEX 9 OF THE ICAO CONVENTION ON INTERNATIONAL CIVIL AVIATION

This document is issued by the Australian Government under subsection 274(3) of the *Migration Act 1958* of the Commonwealth of Australia.

TO: Immigration or appropriate authority:.....  
Airport:.....  
Country: .....

*Attach photograph (if available)*

The person to whom this document is issued is claiming the following identity:

Surname: .....  
Given Name(s): .....  
Date of Birth: .....Place of Birth: .....  
Nationality: .....  
Residence: .....

This person arrived in Australia on..... at..... Airport on flight number.....from.....Airport.

The person named in this document:  
\*is being removed from Australia/\*is being deported from Australia/\*was refused immigration clearance after entering Australia and the incoming carrier has been instructed to remove \*him/\*her from the territory of Australia on flight number.....departing at..... hours on.....from..... Airport.

At the time of entry to Australia this person was:

- \* (1) Not in possession of any \*travel/\*identification documentation.
- \* (2) In possession of the \*photocopied/\*attached documentation.  
..... A brief description of the offending documentation follows—  
..... \* fraudulent/\*falsified/\*counterfeit  
..... \* passport/\*identity card/\*other document  
.....Number:.....

**Schedule 10** Prescribed forms

**Form 3** Document issued in accordance with Annex 9 of the ICAO Convention on International Civil Aviation

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- Country in whose name documentation was issued:.....
- \* (3) In possession of documentation that has been impounded for return to the appropriate authorities of the issuing country.
  - \* (4) In possession of valid \*travel/\*identification documentation that has since expired and cannot be renewed.

According to Annex 9 of the ICAO Convention on International Civil Aviation, the last country in which a passenger previously stayed and most recently travelled from, is invited to accept \*him/\*her for re-examination when \*he/\*she has been refused admission to another country.

I, ....., a delegate of the Secretary or the Australian Border Force Commissioner, issue this document under subsection 274(3) of the *Migration Act 1958*.

Signature and Official Title:.....

Date:.....

Airport:.....

Country: Australia

Telephone:..... Telex:.....

Facsimile: .....

*\*delete as appropriate*

**WARNING—THIS DOCUMENT IS NOT AN IDENTIFICATION DOCUMENT**

## Form 4—Identity card

(regulation 2.102B)



### COMMONWEALTH OF AUSTRALIA

*Migration Act 1958*

#### INSPECTOR'S IDENTITY CARD

For subsection 140W(1) of the *Migration Act 1958*, I, *[name]*,  
Minister for Immigration and Citizenship *[or a delegate of the*  
Minister for Immigration and Citizenship], certify that *[name]*  
whose photograph and signature appear on this card is an  
inspector for the purposes of the Act.

*[photograph]*

Dated *[date]*

*[signature of Minister or delegate]*

*[signature of inspector]*

## Schedule 13—Transitional arrangements

(regulation 5.45)

### Part 1—Amendments made by Migration Amendment Regulation 2012 (No. 2)

#### 101 Operation of Schedule 1

- (1) The amendments of these Regulations made by Schedule 1 to the *Migration Amendment Regulation 2012 (No. 2)* apply in relation to:
  - (a) an application for a visa made on or after 1 July 2012; and
  - (b) an application for approval of a nomination made on or after 1 July 2012.
- (2) However, the repeal of a provision of these Regulations by Schedule 1 to that regulation does not apply in relation to an application for a visa that is taken to have been made by a person before, on or after 1 July 2012 in accordance with regulation 2.08, 2.08A or 2.08B of these Regulations.
- (3) Despite subregulations 5.19(1) to (7), an application to the Minister for approval of a nominated position as an approved appointment made before 1 July 2012 is to be dealt with in accordance with these Regulations as in force immediately before that day.

Note: Regulation 5.19 was amended on 1 July 2012, including changes to terminology and concepts that had been used in that regulation before that day.

#### 102 Operation of Schedule 2

- (1) The amendments of these Regulations made by Schedule 2 to the *Migration Amendment Regulation 2012 (No. 2)* apply in relation to an application for a visa made on or after 1 July 2013.
- (2) However, the repeal of a provision of these Regulations by Schedule 2 to that regulation does not apply in relation to an application for a visa that is taken to have been made by a person before, on or after 1 July 2013 in accordance with regulation 2.08, 2.08A or 2.08B of these Regulations.

## **Part 2—Amendments made by Migration Legislation Amendment Regulation 2012 (No. 2)**

### **201 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment Regulation 2012 (No. 2)* apply in relation to a matter for which an obligation to pay a fee or charge is incurred on or after 1 July 2012.

## **Part 3—Amendments made by Migration Amendment Regulation 2012 (No. 3)**

### **301 Operation of Schedule 1**

- (1) The amendments of these Regulations made by Schedule 1 to the *Migration Amendment Regulation 2012 (No. 3)* apply in relation to an application for a visa made on or after 1 July 2012.
- (2) However, the repeal or amendment of a provision of these Regulations by Schedule 1 to that regulation does not apply in relation to an application for a visa that is taken to have been made by a person before, on or after 1 July 2012 in accordance with regulation 2.08 or 2.08B of these Regulations.

## **Part 4—Amendments made by Migration Legislation Amendment Regulation 2012 (No. 3)**

### **401 Operation of amendments**

The amendments of these Regulations made by Schedules 1 and 2 to the *Migration Legislation Amendment Regulation 2012 (No. 3)* apply in relation to an application for a visa made on or after 1 July 2012.

## **Part 5—Amendments made by Migration Amendment Regulation 2012 (No. 5)**

### **501 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items [1] to [7], [10], [11], [14] to [16] and [18] to [20] of Schedule 1 to the *Migration Amendment Regulation 2012 (No. 5)* apply in relation to an application for a visa made on or after the day that regulation commences.
- (2) The amendments of these Regulations made by items [8], [9], [12], [13], [17] and [21] of Schedule 1 to the *Migration Amendment Regulation 2012 (No. 5)* apply in relation to an application for a visa:
  - (a) made, but not finally determined, before the day that regulation commences; and
  - (b) made on or after the day that regulation commences.



## **Part 6—Amendments made by the Migration Legislation Amendment Regulation 2012 (No. 4)**

### **601 Operation of Schedule 1**

- (1) The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment Regulation 2012 (No. 4)* apply in relation to an application made on or after 24 November 2012 for:
  - (a) a visa; or
  - (b) approval as a sponsor; or
  - (c) approval of a nomination; or
  - (d) the variation of the terms of an approval as a sponsor.
- (2) However, the amendments made by Schedule 1 do not apply in relation to an application for a visa that is taken to have been made by a person before, on or after 24 November 2012 in accordance with regulation 2.08 of these Regulations.

### **602 Operation of Schedule 2**

The amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment Regulation 2012 (No. 4)* apply in relation to:

- (a) an application for:
  - (i) a visa; or
  - (ii) approval as a sponsor; or
  - (iii) approval of a nomination;  
made before 24 November 2012 but not finally determined before that date; and
- (b) an application made on or after 24 November 2012 for a visa.

### **603 Operation of Schedule 3**

- (1) The amendments of these Regulations made by Schedule 3 to the *Migration Legislation Amendment Regulation 2012 (No. 4)* apply in relation to an application made on or after 24 November 2012 for:
  - (a) a visa; or
  - (b) approval as a sponsor.
- (2) However, the amendments made by Schedule 3 do not apply in relation to an application made on or after 24 November 2012 for a visa made by a person seeking to satisfy the secondary criteria for the grant of the visa.
- (3) Also, the amendments made by Schedule 3 do not apply in relation to an application made on or after 24 November 2012 for approval as a sponsor made in relation to an application for a visa made by a person seeking to satisfy the secondary criteria for the grant of the visa.

## **Part 7—Amendments made by Migration Legislation Amendment Regulation 2012 (No. 5)**

### **701 Operation of amendments**

- (1) The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment Regulation 2012 (No. 5)* apply in relation to an application made on or after 24 November 2012 for a visa by a person seeking to satisfy the secondary criteria for the grant of a Subclass 422 (Medical Practitioner) visa.
- (2) The amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment Regulation 2012 (No. 5)* apply in relation to an application for a visa made on or after 24 November 2012.
- (3) The amendments of these Regulations made by Schedule 3 to the *Migration Legislation Amendment Regulation 2012 (No. 5)* apply in relation to an application for a visa made on or after 24 November 2012.
- (4) The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment Regulation 2012 (No. 5)* apply in relation to an application for a visa:
  - (a) made, but not finally determined, before 24 November 2012; or
  - (b) made on or after 24 November 2012.
- (5) The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment Regulation 2012 (No. 5)* apply in relation to a request to be given a prescribed form of evidence of a visa made on or after 24 November 2012.
- (6) The amendments of these Regulations made by Schedule 6 to the *Migration Legislation Amendment Regulation 2012 (No. 5)* apply in relation to an application for a visa made, but not finally determined, before 24 November 2012 if both of the following apply:
  - (a) on or after 24 November 2012, the alleged victim, or another person on the alleged victim's behalf, has provided a statutory declaration under regulation 1.25;
  - (b) the alleged victim, or another person on the alleged victim's behalf, has not previously provided a statutory declaration under regulation 1.25 in relation to that application.
- (7) The amendments of these Regulations made by Schedule 6 to the *Migration Legislation Amendment Regulation 2012 (No. 5)* apply in relation to an application for a visa made on or after 24 November 2012.

## **Part 8—Amendments made by Migration Amendment Regulation 2012 (No. 7)**

### **801 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment Regulation 2012 (No. 7)* apply in relation to an application for a visa made on or after 24 November 2012.

## Part 10—Amendments made by the Migration Amendment Regulation 2012 (No. 8)

### 1001 Operation of amendments

- (1) The amendments of these Regulations made by Schedule 1 to the *Migration Amendment Regulation 2012 (No. 8)* apply in relation to a bridging visa to which the following apply:
  - (a) the visa is held on the basis of an application, or a purported application, for merits review;
  - (b) on 1 January 2013, the final review authority in relation to that merits review had not yet notified the holder of the bridging visa:
    - (i) of its decision on the merits review; or
    - (ii) that the application for merits review was not made in accordance with the law governing the making of applications to that review authority.
- (2) The amendments of these Regulations made by Schedule 1 to the *Migration Amendment Regulation 2012 (No. 8)* also apply in relation to a bridging visa that is held on the basis of an application, or a purported application, for merits review made on or after 1 January 2013.
- (3) The amendments of these Regulations made by Schedule 1 to the *Migration Amendment Regulation 2012 (No. 8)* also apply in relation to a bridging visa:
  - (a) that is held on the basis of an application for a substantive visa:
    - (i) made, but not finally determined, before 1 January 2013; or
    - (ii) made on or after 1 January 2013; and
  - (b) to which subclause (1) or (2) does not apply.
- (4) The amendments of these Regulations made by Schedule 2 to the *Migration Amendment Regulation 2012 (No. 8)* apply in relation to an application for a visa made on or after 1 January 2013.
- (5) The amendments of these Regulations made by Schedule 3 to the *Migration Amendment Regulation 2012 (No. 8)* apply in relation to an application for a visa:
  - (a) made, but not finally determined, before 1 January 2013; or
  - (b) made on or after 1 January 2013.

## **Part 12—Amendments made by the Migration Amendment Regulation 2013 (No. 1)**

### **1201 Operation of Schedules 1 to 7**

The amendments of these Regulations made by Schedules 1 to 7 to the *Migration Amendment Regulation 2013 (No. 1)* apply in relation to an application for a visa made on or after 23 March 2013.

## **Part 13—Amendments made by the Migration Legislation Amendment Regulation 2013 (No. 1)**

### **1301 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items 1 and 2 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for review to the Migration Review Tribunal made on or after 1 July 2013.
- (2) The amendments of these Regulations made by items 3 and 4 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for review to the Refugee Review Tribunal made on or after 1 July 2013.

### **1302 Operation of Schedule 2**

- (1) The amendments of these Regulations made by items 1 to 5 and 8 to 22 of Schedule 2 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for a visa made on or after 23 March 2013.
- (2) The amendments of these Regulations made by items 6 and 7 of Schedule 2 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application for a visa:
  - (a) made, but not finally determined, before 23 March 2013; or
  - (b) made on or after 23 March 2013.

### **1303 Operation of Schedule 3**

- (1) The repeal of subparagraph 2.43(2)(b)(i) by item 2 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* does not apply in relation to a person who:
  - (a) holds a student visa; and
  - (b) was sent a notice of proposed cancellation of the visa under section 119 of the Act for non-compliance with visa condition 8104 or 8105 before 13 April 2013.
- (2) The repeal of subparagraph 2.43(2)(b)(ii) by item 2 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* does not apply in relation to a person who:
  - (a) holds a student visa; and
  - (b) was sent:
    - (i) a notice of proposed cancellation of the visa under section 119 of the Act for non-compliance with visa condition 8202 before 13 April 2013; or

- (ii) a notice under section 20 of the *Education Services for Overseas Students Act 2000* for non-compliance with visa condition 8202 in relation to the visa.

#### **1304 Operation of Schedule 4**

- (1) The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* apply in relation to an application to the Migration Review Tribunal or the Refugee Review Tribunal if the decision to which the application relates is made on or after 1 July 2013.
- (2) The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment Regulation 2013 (No. 1)* also apply in relation to:
- (a) a notice to appear before the Migration Review Tribunal or the Refugee Review Tribunal issued on or after 1 July 2013; and
  - (b) an invitation to provide comments or information to the Migration Review Tribunal or the Refugee Review Tribunal made on or after 1 July 2013; and
  - (c) an extension of time given by the Migration Review Tribunal or the Refugee Review Tribunal on or after 1 July 2013.

**Schedule 13** Transitional arrangements

**Part 14** Amendments made by Migration Amendment Regulation 2013 (No. 2)

Clause 1401

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## **Part 14—Amendments made by Migration Amendment Regulation 2013 (No. 2)**

### **1401 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment Regulation 2013 (No. 2)* apply in relation to an application for a visa made on or after 1 June 2013.



## **Part 15—Amendments made by the Migration Legislation Amendment Regulation 2013 (No. 2)**

### **1501 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items 2, 3 and 4 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 2)* apply in relation to an application for a visa made on or after 1 June 2013.
- (2) The amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment Regulation 2013 (No. 2)* apply in relation to an application for a visa made on or after 1 July 2013.

**Schedule 13** Transitional arrangements

**Part 16** Amendments made by the Migration Amendment (Permanent Protection Visas) Regulation 2013

Clause 1601

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## **Part 16—Amendments made by the Migration Amendment (Permanent Protection Visas) Regulation 2013**

### **1601 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Permanent Protection Visas) Regulation 2013* apply in relation to a visa granted on or after 3 June 2013.

**Part 16A—Amendments made by the Migration  
Amendment (Subclass 050 and Subclass 051 Visas)  
Regulation 2013**

**16A01 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Subclass 050 and Subclass 051 Visas) Regulation 2013* apply on and after the day that regulation commences.

**Schedule 13** Transitional arrangements

**Part 17** Amendments made by the Migration Amendment (Visa Application Charge and Related Matters) Regulation 2013

Clause 1701

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## **Part 17—Amendments made by the Migration Amendment (Visa Application Charge and Related Matters) Regulation 2013**

### **1701 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Visa application Charge and Related Matters) Regulation 2013* apply in relation to an application for a visa made on or after 1 July 2013.

## **Part 19—Amendments made by the Migration Legislation Amendment Regulation 2013 (No. 3)**

### **1901 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items 1 and 2 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for approval as a sponsor, or for the variation of the terms of approval as a sponsor:
  - (a) made, but not finally determined, before 1 July 2013; or
  - (b) made on or after 1 July 2013.
- (2) The amendments of these Regulations made by item 3 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to a nomination under subsection 140GB(1) of the Act:
  - (a) made, but not finally determined, before 1 July 2013; or
  - (b) made on or after 1 July 2013.
- (3) The amendments of these Regulations made by items 4 to 6 of Schedule 1 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to a person who is or was a standard business sponsor on or after 1 July 2013.

### **1902 Operation of Schedule 2**

The amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to:

- (a) an application for approval as a sponsor made on or after 1 July 2013; and
- (b) an application for a variation of a term of an approval as a sponsor made on or after 1 July 2013; and
- (c) a nomination under subsection 140GB(1) of the Act made on or after 1 July 2013; and
- (d) an application for a visa made on or after 1 July 2013.

### **1903 Operation of Schedule 3**

- (1) The amendments of these Regulations made by item 1 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to:
  - (a) a nomination under subsection 140GB(1) of the Act made on or after 1 July 2013; and
  - (b) a nomination under regulation 5.19 made on or after 1 July 2013; and
  - (c) an application for a visa made on or after 1 July 2013.
- (2) The amendments of these Regulations made by items 2 and 3 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for a visa:

Clause 1904

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- (a) made, but not finally determined, before 1 July 2013; or
  - (b) made on or after 1 July 2013.
- (3) The amendments of these Regulations made by item 4 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply on and after 1 July 2013.
- (4) The amendments of these Regulations made by items 5 and 6 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to:
- (a) an application for approval as a sponsor:
    - (i) made, but not finally determined, before 1 July 2013; or
    - (ii) made on or after 1 July 2013; and
  - (b) an application for a variation of a term of an approval as a sponsor:
    - (i) made, but not finally determined, before 1 July 2013; or
    - (ii) made on or after 1 July 2013.
- (5) The amendments of these Regulations made by items 7, 8 and 9 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to a nomination under subsection 140GB(1) of the Act:
- (a) made, but not finally determined, before 1 July 2013; or
  - (b) made on or after 1 July 2013.
- (6) The amendments of these Regulations made by item 10 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to a nomination under regulation 5.19 made on or after 1 July 2013.
- (7) The amendments of these Regulations made by items 11 to 20 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for a visa:
- (a) made, but not finally determined, before 1 July 2013; or
  - (b) made on or after 1 July 2013.
- (8) The amendments of these Regulations made by items 21 and 22 of Schedule 3 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to a visa that is:
- (a) in effect on 1 July 2013; or
  - (b) granted on or after 1 July 2013.

#### **1904 Operation of Schedule 4**

The amendments of these Regulations made by item 4 of Schedule 4 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to a payment made for the purposes of the Act or these Regulations on or after 1 July 2013.

**1905 Operation of Schedule 5**

The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for a visa made on or after 1 July 2013.

**1906 Operation of Schedule 6**

- (1) The amendments of these Regulations made by item 1 of Schedule 6 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for approval of a nomination made on or after 1 July 2013.
- (2) The amendments of these Regulations made by item 2 of Schedule 6 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for a visa made on or after 1 July 2013.

**1907 Operation of Schedule 7**

The amendments of these Regulations made by Schedule 7 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for a visa:

- (a) made, but not finally determined, before 1 July 2013; or
- (b) made on or after 1 July 2013.

**1908 Operation of Schedule 8**

The amendments of these Regulations made by Schedule 8 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to a request made for regulation 2.08A or 2.08B on or after 1 July 2013.

**1909 Operation of Schedule 9**

The amendments of these Regulations made by Schedule 9 to the *Migration Legislation Amendment Regulation 2013 (No. 3)* apply in relation to an application for a visa:

- (a) made, but not finally determined, before 1 July 2013; or
- (b) made on or after 1 July 2013.

## Part 20—Amendments made by the Migration Amendment Regulation 2013 (No. 5)

### 2001 Operation of Schedule 1

- (1) The amendments of these Regulations made by item 1 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply in relation to:
  - (a) an application for approval as a sponsor that:
    - (i) was made before 1 July 2013; and
    - (ii) had not been finally determined before 1 July 2013; and
  - (b) an application for approval as a sponsor made on or after 1 July 2013.
- (2) The amendments of these Regulations made by item 2 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply in relation to:
  - (a) an application for variation of a term of approval as a sponsor that:
    - (i) was made before 1 July 2013; and
    - (ii) had not been finally determined before 1 July 2013; and
  - (b) an application for variation of a term of approval as a sponsor made on or after 1 July 2013.
- (3) The amendments of these Regulations made by item 3 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply in relation to:
  - (a) a nomination under subsection 140GB(1) of the Act:
    - (i) made before 1 July 2013; and
    - (ii) not finally determined before 1 July 2013; and
  - (b) a nomination under subsection 140GB(1) of the Act made on or after 1 July 2013.
- (4) The amendments of these Regulations made by item 4 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply in relation to a standard business sponsor on and after 1 July 2013.
- (5) The amendments of these Regulations made by item 5 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply in relation to a standard business sponsor, or a former standard business sponsor, on and after 1 July 2013.
- (6) The amendments of these Regulations made by items 6, 7 and 9 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply in relation to a standard business sponsor, or a former standard business sponsor, on and after 1 July 2013.
- (7) The amendments of these Regulations made by item 8 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply on and after 1 July 2013.



- (8) The amendments of these Regulations made by item 10 of Schedule 1 to the *Migration Amendment Regulation 2013 (No. 5)* apply in relation to a visa that is:
- (a) in effect on 1 July 2013; or
  - (b) granted on or after 1 July 2013.

## **Part 22—Amendments made by the Migration Amendment (Skills Assessment) Regulation 2013**

### **2201 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items [5] to [7] of Schedule 1 to the *Migration Amendment (Skills Assessment) Regulation 2013* apply in relation to an application for a visa made on or after 28 October 2013.
- (2) The amendments of these Regulations made by items [2] to [4] and [8] to [11] of Schedule 1 to the *Migration Amendment (Skills Assessment) Regulation 2013* apply in relation to an application for a visa made on or after 28 October 2013 as a result of an invitation in writing on or after 28 October 2013 by the Minister to apply for the visa.

## **Part 23—Amendments made by the Migration Amendment (Visa Application Charge and Related Matters No. 2) Regulation 2013**

### **2301 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items 1 and 2 of Schedule 1 to the *Migration Amendment (Visa Application Charge and Related Matters No. 2) Regulation 2013* apply in relation to a nomination under subsection 140GB(1) of the Act:
  - (a) made, but not finally determined, before 23 November 2013; or
  - (b) made on or after 23 November 2013.
- (2) The amendments of these Regulations made by items 7 and 8 of Schedule 1 to the *Migration Amendment (Visa Application Charge and Related Matters No. 2) Regulation 2013* apply in relation to a visa application:
  - (a) made, but not finally determined, before 23 November 2013; or
  - (b) made on or after 23 November 2013.

**Schedule 13** Transitional arrangements

**Part 24** Amendments made by the Migration Amendment (Internet Applications and Related Matters) Regulation 2013

Clause 2401

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## **Part 24—Amendments made by the Migration Amendment (Internet Applications and Related Matters) Regulation 2013**

### **2401 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Internet Applications and Related Matters) Regulation 2013* apply in relation to an application for a visa made on or after 23 November 2013.

## **Part 25—Amendments made by the Migration Amendment (Bridging Visas—Code of Behaviour) Regulation 2013**

### **2501 Operation of Schedule 1**

- (1) The amendment of these Regulations made by item 1 of Schedule 1 to the *Migration Amendment (Bridging Visas—Code of Behaviour) Regulation 2013* applies in relation to an application for a visa made on or after 14 December 2013.
- (2) The amendments of these Regulations made by items 2 to 6 of Schedule 1 to the *Migration Amendment (Bridging Visas—Code of Behaviour) Regulation 2013* apply in relation to an application for a visa:
  - (a) made, but not finally determined, before 14 December 2013; or
  - (b) made on or after 14 December 2013.

## **Part 27—Amendments made by the Migration Amendment (2014 Measures No. 1) Regulation 2014**

### **2701 Operation of Schedules 1 to 3**

The amendments of these Regulations made by Schedules 1 to 3 to the *Migration Amendment (2014 Measures No. 1) Regulation 2014* apply in relation to the following applications for a visa:

- (a) an application made, but not finally determined, before 22 March 2014;
- (b) an application made on or after 22 March 2014.

### **2702 Operation of Schedule 4**

The amendment of these Regulations made by Schedule 4 to the *Migration Amendment (2014 Measures No. 1) Regulation 2014* applies in relation to a person covered by a residence determination on or after 22 March 2014.

### **2703 Operation of Schedule 5**

The amendments of these Regulations made by Schedule 5 to the *Migration Amendment (2014 Measures No. 1) Regulation 2014* apply in relation to:

- (a) the following applications for a visa:
  - (i) an application made, but not finally determined, before 22 March 2014;
  - (ii) an application made on or after 22 March 2014; and
- (b) the following nominations by an approved sponsor under section 140GB of the Act:
  - (i) a nomination made, but not finally determined, before 22 March 2014;
  - (ii) a nomination made on or after 22 March 2014.

## **Part 28—Amendments made by the Migration Amendment (Redundant and Other Provisions) Regulation 2014**

### **2801 Operation of Schedule 1**

- (1) The amendments of these Regulations made by Parts 1, 3, 4, 5 and 7 of Schedule 1 to the *Migration Amendment (Redundant and Other Provisions) Regulation 2014* (the **amending regulation**) apply in relation to an application for a visa made on or after 22 March 2014.
- (2) Despite the repeal of provisions of these Regulations by Part 1, 3, 4, 5 or 7 of the amending regulation, those provisions, as in force immediately before those repeals, continue to apply in relation to an application for a visa if:
  - (a) the visa application is taken to have been made by a person before, on or after 22 March 2014 in accordance with regulation 2.08, 2.08A or 2.08B; and
  - (b) for an application taken to have been made in accordance with regulation 2.08—the non-citizen mentioned in paragraph 2.08(1)(a) applied for his or her visa before 22 March 2014; and
  - (c) for an application taken to have been made in accordance with regulation 2.08A or 2.08B—the original applicant mentioned in paragraph 2.08A(1)(a) or 2.08B(1)(a), as the case requires, applied for his or her visa before 22 March 2014.
- (3) Despite the repeal of Division 2.7 of these Regulations by Part 1 of Schedule 1 to the amending regulation, that Division, as in force immediately before that repeal, continues to apply after 22 March 2014 to an assurance of support accepted by the Minister before 1 July 2004.
- (4) The amendments of these Regulations made by Part 6 of Schedule 1 to the amending regulation apply in relation the following applications for a visa:
  - (a) an application made, but not finally determined, before 22 March 2014;
  - (b) an application made on or after 22 March 2014.
- (5) If:
  - (a) an instrument is in force immediately before the commencement of Part 2 of Schedule 1 to the amending regulation; and
  - (b) the instrument was made (whether wholly or partly) under a provision amended by that Part;then, the instrument has effect after that commencement as if it had been made under that provision as amended.

## **Part 29—Amendments made by the Migration Amendment (Credit Card Surcharge) Regulation 2014**

### **2901 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Credit Card Surcharge) Regulation 2014* apply in relation to the payment of an instalment, or part of an instalment, of visa application charge made on or after 19 April 2014.



## **Part 31—Amendments made by the Migration Legislation Amendment (2014 Measures No. 1) Regulation 2014**

### **3101 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2014 Measures No. 1) Regulation 2014* apply in relation to a request under section 70 of the Act for evidence of a visa, made on or after 1 July 2014.

### **3102 Operation of Schedules 2 and 3**

The amendments of these Regulations made by Schedules 2 and 3 to the *Migration Legislation Amendment (2014 Measures No. 1) Regulation 2014* apply in relation to an application for a visa made on or after 1 July 2014.

### **3103 Operation of Schedule 5**

The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment (2014 Measures No. 1) Regulation 2014* apply in relation to the following applications for a visa:

- (a) an application made, but not finally determined, before 1 July 2014;
- (b) an application made on or after 1 July 2014.

### **3104 Operation of Schedule 7**

The amendments of these Regulations made by Schedule 7 to the *Migration Legislation Amendment (2014 Measures No. 1) Regulation 2014* apply on and after 1 July 2014 in relation to an infringement notice served before, on or after that date.

**Schedule 13** Transitional arrangements

**Part 32** Amendments made by the Migration Amendment (Credit Card Surcharge Additional Measures) Regulation 2014

Clause 3201

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## **Part 32—Amendments made by the Migration Amendment (Credit Card Surcharge Additional Measures) Regulation 2014**

### **3201 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Credit Card Surcharge Additional Measures) Regulation 2014* apply in relation to a payment of a fee or charge on or after 1 July 2014.

## **Part 33—Amendments made by the Migration Amendment (Temporary Graduate Visas) Regulation 2014**

### **3301 Operation of Part 1 of Schedule 1**

The amendments of these Regulations made by Part 1 of Schedule 1 to the *Migration Amendment (Temporary Graduate Visas) Regulation 2014* apply in relation to the following applications for a visa:

- (a) an application made on or after 1 July 2014, but not finally determined before 6 October 2014;
- (b) an application made on or after 6 October 2014.

## **Part 34—Amendments made by the Migration Amendment (Bridging Visas) Regulation 2014**

### **3401 Operation of Part 1 of Schedule 1**

The amendments of these Regulations made by Part 1 of Schedule 1 to the *Migration Amendment (Bridging Visas) Regulation 2014* apply in relation to a Bridging E (Class WE) visa:

- (a) granted as a result of an application for the visa made on or after 6 October 2014; or
- (b) granted by the Minister under subsection 195A(2) of the Act, or under regulation 2.25, on or after 6 October 2014.

## **Part 35—Amendments made by the Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014**

### **3501 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application for a visa made on or after 23 November 2014.

### **3502 Operation of Schedules 2 and 3**

The amendments of these Regulations made by Schedules 2 and 3 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply on and after 23 November 2014.

### **3503 Operation of Schedule 4**

The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application for a Student (Temporary) (Class TU) visa made on or after 23 November 2014.

### **3504 Operation of Schedule 5**

The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to the following applications for a visa:

- (a) an application made, but not finally determined, before 23 November 2014;
- (b) an application made on or after 23 November 2014.

### **3505 Operation of Schedule 7**

The amendments of these Regulations made by Schedule 7 to the *Migration Legislation Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to an application for a student visa made on or after 23 November 2014.

## **Part 37—Amendments made by the Migration Amendment (Subclass 050 Visas) Regulation 2014**

### **3701 Operation of Part 1 of Schedule 1**

- (1) The amendment of these Regulations made by item 1 of Part 1 of Schedule 1 to the *Migration Amendment (Subclass 050 Visas) Regulation 2014* applies in relation to an application for a Subclass 050 (Bridging (General)) visa made on or after 23 November 2014.
- (2) The amendments of these Regulations made by items 2 and 3 of Part 1 of Schedule 1 to the *Migration Amendment (Subclass 050 Visas) Regulation 2014* apply in relation to a Subclass 050 (Bridging (General)) visa granted under section 195A of the Act on or after 23 November 2014.

## **Part 38—Amendments made by the Migration Amendment (2014 Measures No. 2) Regulation 2014**

### **3801 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to the following invitations to a visa applicant given on or after 1 January 2015:

- (a) an invitation, under subsection 56(2) of the Act, to give additional information;
- (b) an invitation, under paragraph 57(2)(c) of the Act, to comment on information.

### **3802 Operation of Schedule 2**

The amendments of these Regulations made by Schedule 2 to the *Migration Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to the following applications for a Subclass 188 (Business Innovation and Investment (Provisional)) visa:

- (a) an application made, but not finally determined, before 12 December 2014;
- (b) an application made on or after 12 December 2014.

### **3803 Operation of Schedule 3**

- (1) The amendments of these Regulations made by items 1 to 3 of Schedule 3 to the *Migration Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to the following applications for a visa:
  - (a) an application made, but not finally determined, before the commencement of the items;
  - (b) an application made on or after the commencement of the items.
- (2) The amendments of these Regulations made by items 4 to 12 and 16 to 21 of Schedule 3 to the *Migration Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to a decision to grant or not to grant a visa, or to cancel a visa, made on or after the commencement of the items.
- (3) The amendments of these Regulations made by items 13, 14 and 15 of Schedule 3 to the *Migration Amendment (2014 Measures No. 2) Regulation 2014* apply in relation to a decision to cancel a visa made on or after the commencement of the items.

## **Part 39—Amendments made by the Migration Amendment (Partner Visas) Regulation 2014**

### **3901 Operation of Part 1 of Schedule 1**

The amendments of these Regulations made by Part 1 of Schedule 1 to the *Migration Amendment (Partner Visas) Regulation 2014* apply in relation to an application for a visa made on or after 1 January 2015.



## **Part 40—Amendments made by the Migration Amendment (Resolving the Asylum Legacy Caseload) Regulation 2015**

### **4001 Operation of Schedule 2**

The amendments of these Regulations made by Schedule 2 to the *Migration Amendment (Resolving the Asylum Legacy Caseload) Regulation 2015* apply in relation to the review of an RRT-reviewable decision made on or after the commencement of that Schedule in relation to an application for a protection visa made on or after 16 December 2014.

## **Part 41—Amendments made by the Migration Amendment (2015 Measures No. 1) Regulation 2015**

### **4101 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* apply in relation to a special purpose visa taken to have been granted on or after 18 April 2015.

### **4102 Operation of Schedule 2**

- (1) The amendments of these Regulations made by items 1 to 10 of Schedule 2 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* apply in relation to the following applications for a visa:
  - (a) an application made on or after 1 July 2012, but not finally determined before 18 April 2015;
  - (b) an application made on or after 18 April 2015.
- (3) The amendments of these Regulations made by items 11 to 14 of Schedule 2 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* apply in relation to an application for a visa made on or after 18 April 2015.

### **4103 Operation of Schedule 3**

- (1) The amendment of these Regulations made by item 1 of Schedule 3 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* applies in relation to a notice given on or after 18 April 2015.
- (2) The amendment of these Regulations made by item 2 of Schedule 3 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* applies in relation to the following applications:
  - (a) an application for a visa made, but not finally determined, before 18 April 2015;
  - (b) an application for a visa made on or after 18 April 2015.

### **4104 Operation of Schedule 4**

The amendments of these Regulations made by Schedule 4 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* apply in relation to an event mentioned in regulation 2.84 that occurs on or after 18 April 2015.

### **4105 Operation of Schedule 5**

The amendment of these Regulations made by Schedule 5 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* applies in relation to the following applications for a visa:

- (a) an application made, but not finally determined, before 18 April 2015;
- (b) an application made on or after 18 April 2015.

#### **4106 Operation of Schedule 6**

The amendments of these Regulations made by Schedule 6 to the *Migration Amendment (2015 Measures No. 1) Regulation 2015* apply in relation to an application for a visa made on or after 18 April 2015.

## **Part 42—Amendments made by the Migration Amendment (Protection and Other Measures) Regulation 2015**

### **4201 Operation of Schedule 1**

The amendment of these Regulations made by item 2 of Schedule 1 to the *Migration Amendment (Protection and Other Measures) Regulation 2015* applies in relation to the following applications for protection visas:

- (a) an application made, but not finally determined, before the commencement of that item;
- (b) an application made on or after the commencement of that item.

## **Part 43—Amendments made by the Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015**

### **4301 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015* apply in relation to an application for a visa made on or after 1 July 2015.

### **4302 Operation of Schedule 5**

The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015* apply in relation to an application for approval of a nomination of a position made on or after 1 July 2015.

### **4303 Operation of Schedule 7**

The amendments of these Regulations made by Schedule 7 to the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015* apply in relation to an application for a visa made on or after 1 July 2015.

### **4304 Operation of Schedule 9**

The amendment of these Regulations made by item 1 of Schedule 9 to the *Migration Legislation Amendment (2015 Measures No. 2) Regulation 2015* does not affect the continuity of any instrument that is in force under subregulation 5.40(1) immediately before the commencement of the item.

## **Part 44—Amendments made by the Migration Amendment (Investor Visas) Regulation 2015**

### **4401 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Investor Visas) Regulation 2015* apply in relation to an application for a visa made on or after 1 July 2015.

## **Part 45—Amendments made by the Migration Amendment (Visa Labels) Regulation 2015**

### **4501 Operation of Schedule 1**

Despite the repeal of Division 2.4 of Part 2 of these Regulations by Schedule 1 to the *Migration Amendment (Visa Labels) Regulation 2015*, that Division, as in force immediately before the repeal, continues to apply on and after 1 September 2015 in relation to a request made under section 70 of the Act for evidence of a visa if:

- (a) the request was made before 1 September 2015; and
- (b) the visa evidence charge for the request had been paid before 1 September 2015.

## **Part 46—Amendments made by the Migration Amendment (Conversion of Protection Visa Applications) Regulation 2015**

### **4601 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Conversion of Protection Visa Applications) Regulation 2015* (the **amending regulation**) apply in relation to any pre-conversion application (within the meaning of subregulation 2.08F(1)) including, but not limited to, a pre-conversion application that is the subject of a proceeding in any court that has not been concluded immediately before the commencement of Schedule 1 to the amending regulation.



## **Part 47—Amendments made by the Migration Amendment (Special Category Visas and Special Return Criterion 5001) Regulation 2015**

### **4701 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Special Category Visas and Special Return Criterion 5001) Regulation 2015* apply in relation to an application for a visa made on or after the day that regulation commences.

## Part 48—Amendments made by the Migration Legislation Amendment (2015 Measures No. 3) Regulation 2015

### 4801 Operation of Schedules 1 to 4

The amendments of these Regulations made by Schedules 1 to 4 to the *Migration Legislation Amendment (2015 Measures No. 3) Regulation 2015* apply in relation to an application for a visa made on or after 21 November 2015.

Note: Schedules 1 to 4 to the *Migration Legislation Amendment (2015 Measures No. 3) Regulation 2015* commence on 21 November 2015.

### 4802 Operation of Schedule 5

- (1) The amendments of these Regulations made by Schedule 5 to the *Migration Legislation Amendment (2015 Measures No. 3) Regulation 2015* apply in relation to an application for a visa made on or after 1 December 2015.
- (2) However, to the extent that the application relates to work carried out before 1 December 2015, paragraph 417.211(5)(c) of Schedule 2 (as amended by the amendments referred to in subclause (1)) does not apply in relation to that work.

Note: Schedule 5 to the *Migration Legislation Amendment (2015 Measures No. 3) Regulation 2015* commences on 1 December 2015.

### 4803 Operation of Schedule 6

The amendments of these Regulations made by Schedule 6 to the *Migration Legislation Amendment (2015 Measures No. 3) Regulation 2015* apply in relation to the following applications for a visa:

- (a) an application made, but not finally determined, before 21 November 2015;
- (b) an application made on or after 21 November 2015.

Note: Schedule 6 to the *Migration Legislation Amendment (2015 Measures No. 3) Regulation 2015* commences on 21 November 2015.

## **Part 49—Amendments made by the Migration Amendment (Clarifying Subclass 457 Requirements) Regulation 2015**

### **4901 Operation of amendments**

- (1) The amendment of these Regulations made by item 1 of Schedule 1 to the *Migration Amendment (Clarifying Subclass 457 Requirements) Regulation 2015* applies in relation to an application for approval of a nomination made on or after the commencement of the item.
- (2) The amendment of these Regulations made by item 2 of Schedule 1 to the *Migration Amendment (Clarifying Subclass 457 Requirements) Regulation 2015* applies to a work agreement entered into on or after the commencement of the item.
- (3) The amendments of these Regulations made by items 3 and 4 of Schedule 1 to the *Migration Amendment (Clarifying Subclass 457 Requirements) Regulation 2015* apply in relation to a visa granted on or after the commencement of the items.

## **Part 50—Amendments made by the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014**

### **5000 Operation of Divisions 1 and 3 of Part 4 of Schedule 2**

The amendments of these Regulations made by Divisions 1 and 3 of Part 4 of Schedule 2 to the *Migration Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014* apply in relation to:

- (a) a visa application made on or after the commencement of Division 1 of that Part; and
- (b) a visa application that is taken to be, and always to have been, a valid application for a Temporary Protection (Class XD) visa by the operation of paragraph 2.08F(1)(b) of these Regulations (as inserted by Division 2 of that Part).

Note: Regulation 2.08F applies, by its own terms, in relation to some protection visa applications made before the commencement of that Part.

## **Part 51—Amendments made by the Migration Amendment (Charging for a Migration Outcome and Other Measures) Regulation 2015**

### **5101 Operation of Schedule 1**

- (1) The amendments of these Regulations made by items 9 and 11 to 14 of Schedule 1 to the *Migration Amendment (Charging for a Migration Outcome and Other Measures) Regulation 2015* apply in relation to a nomination made after the commencement of those items.
- (2) The amendment of these Regulations made by item 15 of Schedule 1 to the *Migration Amendment (Charging for a Migration Outcome and Other Measures) Regulation 2015* applies in relation to an application for approval of a nomination made after the commencement of that item.
- (3) The amendments of these Regulations made by items 21 to 27 of Schedule 1 to the *Migration Amendment (Charging for a Migration Outcome and Other Measures) Regulation 2015* apply in relation to an application for a visa made after the commencement of those items.
- (4) The amendments of these Regulations made by items 28, 29, 31 to 35, 37 to 39, 41, 42, 44 to 47 and 49 to 51 of Schedule 1 to the *Migration Amendment (Charging for a Migration Outcome and Other Measures) Regulation 2015* apply in relation to:
  - (a) an application for a visa made, but not finally determined, before the commencement of those items; and
  - (b) an application for a visa made after the commencement of those items.

## Part 52—Amendments made by the Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015

### 5201 Operation of Schedule 1

- (1) The amendments of these Regulations made by Part 1 of Schedule 1 to the *Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015* apply in relation to an application for a visa made on or after 14 December 2015.
- (2) The amendment of these Regulations made by Part 2 of Schedule 1 to the *Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015* applies in relation to:
  - (a) a decision (a **remittal decision**) by the Immigration Assessment Authority to remit a fast track reviewable decision for reconsideration, if the remittal decision is made on or after 14 December 2015; and
  - (b) a fast track reviewable decision that is the subject of a remittal decision, whether the fast track reviewable decision is made before, on or after 14 December 2015.
- (3) The amendments of these Regulations made by Part 3 of Schedule 1 to the *Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015* apply in relation to an application for a visa made on or after 14 December 2015.

Note: Schedule 1 to the *Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015* commences on 14 December 2015.

### 5202 Operation of Schedule 2

*Personal identifier required before 16 February 2016*

- (1) Subitem (2) applies if:
  - (a) before 16 February 2016, a person was required to provide a personal identifier under:
    - (i) section 46, 166, 170, 175 or 188 of the Act; or
    - (ii) regulation 2.04; and
  - (b) immediately before 16 February 2016, both of the following apply:
    - (i) the person had not complied with the requirement;
    - (ii) the period for complying with the requirement had not ended.
- (2) Despite the amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015*, these Regulations continue to apply in relation to the requirement as if those amendments had not been made.

*Visa application made (but not finally determined) before 16 February 2016, but personal identifier not required*

- (3) The amendment of these Regulations made by item 1 of Schedule 2 to the *Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015* applies, subject to subitem (2), to the following applications for visas:
- (a) an application made, but not finally determined, before 16 February 2016;
  - (b) an application made on or after 16 February 2016.

Note: Schedule 2 to the *Migration Legislation Amendment (2015 Measures No. 4) Regulation 2015* commences on 16 February 2016.

## **Part 53—Amendments made by the Migration Amendment (Priority Consideration of Certain Visa Applications) Regulation 2016**

### **5301 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Priority Consideration of Certain Visa Applications) Regulation 2016* apply in relation to an application for a visa made on or after 15 March 2016.

Note: Schedule 1 to the *Migration Amendment (Priority Consideration of Certain Visa Applications) Regulation 2016* commences on 15 March 2016.



## **Part 54—Amendments made by the Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016**

### **5401 Operation of Schedule 1**

- (1) The amendment of these Regulations made by item 1 of Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* applies on and after 19 April 2016.
- (2) The amendments of these Regulations made by items 2 and 3 of Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* apply in relation to:
  - (a) an application for approval of a sponsor:
    - (i) made, but not finally determined, before 19 April 2016; or
    - (ii) made on or after 19 April 2016; and
  - (b) an application for the variation of the terms of an approval of a sponsor:
    - (i) made, but not finally determined, before 19 April 2016; or
    - (ii) made on or after 19 April 2016.
- (3) The amendment of these Regulations made by item 4 of Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* applies in relation to discriminatory recruitment practices engaged in on or after 19 April 2016 by a standard business sponsor or a former standard business sponsor.

Note: Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* commences on 19 April 2016.

### **5402 Operation of Schedule 2**

- (1) The amendment of these Regulations made by item 1 of Schedule 2 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* applies in relation to an application for a visa made on or after 19 April 2016.
- (2) The amendments of these Regulations made by items 2 to 4 of Schedule 2 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* apply in relation to the following:
  - (a) an application for a visa made, but not finally determined, before 19 April 2016;
  - (b) an application for a visa made on or after 19 April 2016.

Note: Schedule 2 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* commences on 19 April 2016.

**5403 Operation of Schedule 3**

The amendment of these Regulations made by item 1 of Schedule 3 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* applies in relation to the following applications for a visa:

- (a) an application made, but not finally determined, before 19 April 2016;
- (b) an application made on or after 19 April 2016.

Note: Schedule 3 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* commences on 19 April 2016.

**5404 Operation of Schedule 4**

- (1) The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* (other than items 44, 48 and 49 of that Schedule) apply in relation to an application for a visa made on or after 1 July 2016.
- (2) The amendments of these Regulations made by items 44, 48 and 49 of Schedule 4 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* apply in relation to a visa granted before, on or after 1 July 2016.

Note: Schedule 4 to the *Migration Legislation Amendment (2016 Measures No. 1) Regulation 2016* commences on 1 July 2016.

## **Part 55—Amendments made by the Migration Legislation Amendment (2016 Measures No. 3) Regulation 2016**

### **5501 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 3) Regulation 2016* apply to the making of applications for Return (Residence) (Class BB) visas on or after 10 September 2016.

### **5502 Operation of Schedules 2 and 3**

The amendments of these Regulations made by Schedules 2 and 3 to the *Migration Legislation Amendment (2016 Measures No. 3) Regulation 2016* apply in relation to payment of fees and charges on or after 10 September 2016.

### **5503 Operation of Schedule 4**

The amendment of these Regulations made by Schedule 4 to the *Migration Legislation Amendment (2016 Measures No. 3) Regulation 2016* applies to non-citizens born before, on or after 10 September 2016.

### **5504 Operation of Schedule 6**

The amendments of these Regulations made by Schedule 6 to the *Migration Legislation Amendment (2016 Measures No. 3) Regulation 2016* apply in relation to an application for any of the following visas made on or after 18 November 2016:

- (a) a Prospective Marriage (Temporary) (Class TO) visa;
- (b) a Partner (Provisional) (Class UF) visa;
- (c) a Partner (Temporary) (Class UK) visa.

Note: Schedule 6 to the *Migration Legislation Amendment (2016 Measures No. 3) Regulation 2016* commences on 18 November 2016.

**Schedule 13** Transitional arrangements

**Part 56** Amendments made by the Migration Amendment (Entrepreneur Visas and Other Measures)  
Regulation 2016

Clause 5601

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## **Part 56—Amendments made by the Migration Amendment (Entrepreneur Visas and Other Measures) Regulation 2016**

### **5601 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Amendment (Entrepreneur Visas and Other Measures) Regulation 2016* apply in relation to an application for a visa made on or after 10 September 2016.

Note: Schedule 1 to the *Migration Amendment (Entrepreneur Visas and Other Measures) Regulation 2016* commences on 10 September 2016.

## **Part 57—Amendments made by the Migration Legislation Amendment (2016 Measures No. 4) Regulation 2016**

### **5701 Operation of Schedule 1**

The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 4) Regulation 2016* apply to a visa granted on or after 19 November 2016.

### **5702 Operation of Schedule 2**

The amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2016 Measures No. 4) Regulation 2016* apply in relation to an application for a visa made on or after 19 November 2016.

### **5703 Operation of Schedule 3**

The amendments of these Regulations made by Schedule 3 to the *Migration Legislation Amendment (2016 Measures No. 4) Regulation 2016* apply to the provision of information in connection with an identification test carried out on or after 19 November 2016.

### **5704 Operation of Schedule 4**

- (1) The amendments of these Regulations made by Schedule 4 to the *Migration Legislation Amendment (2016 Measures No. 4) Regulation 2016* apply in relation to:
  - (a) an application for a visa made on or after 19 November 2016; or
  - (b) a visa granted as a result of such an application.
- (2) To avoid doubt, despite the amendment of subparagraph 3.01(2)(e)(ii), regulation 3.01 (as amended) does not apply to a person who:
  - (a) enters Australia on a non-military ship; and
  - (b) holds a Subclass 988 (Maritime Crew) visa that was granted (before, on or after 19 November 2016):
    - (i) as a result of an application made before 19 November 2016; and
    - (ii) on the basis that the person was a dependent child of a member of the crew of that non-military ship.
- (3) Despite subclause (1), the amendment of subparagraph 457.511(d)(iv) of Schedule 2 applies to a visa granted to a person on or after 19 November 2016, whether it was granted:
  - (a) on the basis that he or she was a member of the family unit of the holder of a visa in the circumstances described in subregulation 1.12(10) (as in force before 19 November 2016); or

**Schedule 13** Transitional arrangements

**Part 57** Amendments made by the Migration Legislation Amendment (2016 Measures No. 4)  
Regulation 2016

Clause 5704

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(b) as a result of an application made on or after 19 November 2016.

## **Part 58—Amendments made by the Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016**

### **5801 Operation of Schedule 1**

- (1) The amendments of these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016* apply in relation to an application for a visa made on or after 19 November 2016.
- (2) To avoid doubt, an instrument in force under subregulation 2.07(5) immediately before 19 November 2016 continues in force on and after that day regardless of the amendments of that subregulation made by Schedule 1 to the *Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016*.

### **5802 Operation of Schedule 2**

The amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2016 Measures No. 5) Regulation 2016* apply in relation to a bridging visa granted on or after 19 November 2016.

## Part 60—Amendments made by the Migration Amendment (Temporary Activity Visas) Regulation 2016

### 6001 Operation of Parts 3 and 4 of Schedule 1

The amendments of these Regulations made by Parts 3 and 4 of Schedule 1 to the *Migration Amendment (Temporary Activity Visas) Regulation 2016* apply in relation to an application for a visa made on or after 19 November 2016.

Note: Parts 3 and 4 of Schedule 1 to the *Migration Amendment (Temporary Activity Visas) Regulation 2016* commence on 19 November 2016.

### 6002 Operation of Parts 5 and 6 of Schedule 1

(1) The amendments of these Regulations made by Parts 5 and 6 of Schedule 1 to the *Migration Amendment (Temporary Activity Visas) Regulation 2016* apply in relation to the following:

- (a) an application for a visa made on or after 19 November 2016;
- (b) an application for approval as a sponsor made on or after 19 November 2016;
- (c) an application for a variation of a term of an approval as a sponsor made on or after 19 November 2016;
- (d) a nomination made under subsection 140GB(1) of the Act on or after 19 November 2016, including such a nomination made:
  - (i) by an approved sponsor that was approved as a sponsor as a result of an application for approval made before, on or after 19 November 2016; or
  - (ii) in relation to an application for a visa made before, on or after 19 November 2016.

(2) If:

- (a) before 19 November 2016, a person applies for approval in relation to any of the following classes of sponsor:
  - (i) a long stay activity sponsor;
  - (ii) a training and research sponsor;
  - (iii) a special program sponsor;
  - (iv) an entertainment sponsor;
  - (v) a superyacht crew sponsor;
  - (vi) a professional development sponsor; and
- (b) the Minister has not approved, or refused to approve, the person as a sponsor in relation to that class of sponsor; and
- (c) after 18 May 2017, the person gives the Minister a written notice withdrawing the application;

the application is taken to be withdrawn, and the Minister may refund the fee paid in accordance with regulation 2.61 in relation to the application.



- (3) If:
- (a) before 19 November 2016, an approved sponsor makes a nomination under subsection 140GB(1) of the Act identifying a proposed applicant for:
    - (i) a Subclass 401 (Temporary Work (Long Stay Activity)) visa; or
    - (ii) a Subclass 402 (Training and Research) visa; or
    - (iii) a Subclass 420 (Temporary Work (Entertainment)) visa; and
  - (b) the proposed applicant does not apply for the visa before 19 November 2016; and
  - (c) the Minister has not approved, or refused to approve, the nomination; and
  - (d) the approved sponsor gives the Minister a written notice withdrawing the nomination;

the nomination is taken to be withdrawn, and the Minister may refund the fee paid in accordance with regulation 2.73A in relation to the nomination.

Note: Parts 5 and 6 of Schedule 1 to the *Migration Amendment (Temporary Activity Visas) Regulation 2016* commence on 19 November 2016.

## Part 62—Amendments made by the Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017

### 6201 Operation of Schedule 1

- (1) The amendments of item 1216 of Schedule 1 to these Regulations made by Schedule 1 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017* apply in relation to the following:
  - (a) an application for a visa which, in accordance with subregulation (2), is taken to have been made before 18 April 2017;
  - (b) an application for a visa made on or after 18 April 2017.
- (2) If:
  - (a) before 18 April 2017, an applicant (the *child*) made or purported to make an application for a visa on the basis that clause 159.311 of Schedule 2 is satisfied in relation to another applicant whose application was covered by paragraph 1216(3A)(a) or (b) of Schedule 1; and
  - (b) clause 159.311 of Schedule 2 would not be satisfied only because the child's application could not be combined with the application made by the other applicant as referred to in paragraph 1216(3B)(c) as in force at the time the child's application was made or purportedly made; and
  - (c) had the child's application been made on 18 April 2017, it could have been combined with the application made by the other applicant as referred to in paragraph 1216(3B)(ca) as inserted by Schedule 1 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017*;the child's application is taken to have been made at the same time and place as, and combined with, the application made by the other applicant.

### 6202 Operation of Schedule 2

- (1) The amendments of clauses 785.511 and 790.511 of Schedule 2 to these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017* apply in relation to visas granted before, on or after 18 April 2017.
- (2) Other amendments of these Regulations made by Schedule 2 to the *Migration Legislation Amendment (2017 Measures No. 1) Regulations 2017* apply in relation to the following:
  - (a) an application for a visa made before, but not finally determined by, 18 April 2017;
  - (b) an application for a visa made on or after 18 April 2017.