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Statutory Rules 1995 No. *L*<sup>1</sup>

*38/*

## Migration Regulations<sup>2</sup> (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,  
acting with the advice of the Federal Executive Council, make the  
following Regulations under the *Migration Act 1958*.

Dated *L* 1995.

*7 March/*

*L* **BILL HAYDEN/**  
Governor-General

By His Excellency's Command,

*L*  
Minister for Immigration and Ethnic Affairs

*NICK BOLKUS/*

### PART 1—PRELIMINARY

#### 1. Commencement

1.1 Regulation 2, subregulations 4.1 and 5.1 and regulations 6 and 7 are taken to have commenced on 1 September 1994.

1.2 Regulation 8 is taken to have commenced on 12 December 1994.

1.3 Regulation 3 is taken to have commenced on 9 January 1995.

1.4 Subregulations 4.2, 4.3, 5.2 and 5.3 commence on 17 March 1995.

1.5 Part 3 commences on 3 April 1995.

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

## 2. Amendment

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

### **PART 2—AMENDMENTS HAVING EFFECT BEFORE 3 APRIL 1995**

#### 3. Schedule 1 (Classes of visas)

3.1 Item 1129A (heading):

Omit “(Class BF)”, substitute “(Class BG)”.

#### 4. Schedule 2, Part 435 (Sri Lankan)

4.1 Clause 435.213:

Omit the clause, substitute:

“435.213 The applicant:

- (a) held an entry permit on 31 December 1991 or at some time after that date; or
- (b) held a substantive visa on 1 September 1994 or at some time after that date.”.

4.2 Clause 435.214:

Omit “31 March 1995”, substitute “30 September 1995”.

4.3 Clause 435.511:

Omit “31 March 1995”, substitute “30 September 1995”.

**5. Schedule 2, Part 443 (Citizens of Former Yugoslavia)**

**5.1 Clause 443.213:**

Omit the clause, substitute:

“443.213 The applicant:

- (a) held an entry permit on 31 December 1991 or at some time after that date; or
- (b) held a substantive visa on 1 September 1994 or at some time after that date.”.

**5.2 Clause 443.214:**

Omit “31 March 1995”, substitute “30 September 1995”.

**5.3 Clause 443.511:**

Omit “31 March 1995”, substitute “30 September 1995”.

**6. Schedule 2, Part 801 (Spouse)**

**6.1 Subclause 801.221 (1):**

Omit “or (6)”, substitute “, (6) or (8)”.

**6.2 Clause 801.221:**

Add at the end:

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

- (a) the applicant held a Subclass 820 (Spouse) visa that ceased on notification of a decision of the Minister to refuse a Subclass 801 visa; and
- (b) a review officer or the Tribunal has determined that the applicant meets the criteria for the grant of a Subclass 801 visa apart from the criterion that the applicant hold a Subclass 820 visa.”.

**6.3 Clause 801.321:**

Omit the clause, substitute:

“801.321 An applicant meets the requirements of this clause if:

- (a) either:
  - (i) the applicant is the holder of:
    - (A) a Subclass 445 (Dependent Child) visa; or
    - (B) a Subclass 820 (Spouse) visa;

- granted on the basis that the applicant was the dependent child of another person who was the holder of a Subclass 820 visa; or
- (ii) the applicant was the holder of:
- (A) a Subclass 445 visa; or
  - (B) a Subclass 820 visa;
- which ceased on notification of a decision to refuse a Subclass 801 visa to the person of whom the applicant is a dependent child; and
- (b) that other person has been granted a Subclass 801 visa.”.

## 7. Schedule 2, Part 814 (Interdependency)

### 7.1 Subclause 814.221 (1):

Omit “or (4)”, substitute “, (4) or (6)”.

### 7.2 Clause 814.221:

Add at the end:

- “(6) An applicant meets the requirements of this subclause if:
- (a) the applicant held a Subclass 826 (Interdependency) visa that ceased on notification of a decision of the Minister to refuse a Subclass 814 visa; and
  - (b) a review officer or the Tribunal has determined that the applicant meets the criteria for the grant of a Subclass 814 visa apart from the criterion that the applicant hold a Subclass 826 visa.”.

### 7.3 Clause 814.321:

Omit the clause, substitute:

“814.321 An applicant meets the requirements of this clause if:

- (a) either:
  - (i) the applicant is the holder of a Subclass 445 (Dependent Child) visa or a Subclass 826 (Interdependency) visa granted on the basis that the applicant was the dependent child of another person who was the holder of a Subclass 826 visa; or
  - (ii) the applicant was the holder of a Subclass 445 visa or a Subclass 826 visa which ceased on notification of a decision to refuse a Subclass 814 visa to the

- granted on the basis that the applicant was the dependent child of another person who was the holder of a Subclass 820 visa; or
- (ii) the applicant was the holder of:
- (A) a Subclass 445 visa; or
  - (B) a Subclass 820 visa;
- which ceased on notification of a decision to refuse a Subclass 801 visa to the person of whom the applicant is a dependent child; and
- (b) that other person has been granted a Subclass 801 visa.”.

## 7. Schedule 2, Part 814 (Interdependency)

### 7.1 Subclause 814.221 (1):

Omit “or (4)”, substitute “, (4) or (6)”.

### 7.2 Clause 814.221:

Add at the end:

- “(6) An applicant meets the requirements of this subclause if:
- (a) the applicant held a Subclass 826 (Interdependency) visa that ceased on notification of a decision of the Minister to refuse a Subclass 814 visa; and
  - (b) a review officer or the Tribunal has determined that the applicant meets the criteria for the grant of a Subclass 814 visa apart from the criterion that the applicant hold a Subclass 826 visa.”.

### 7.3 Clause 814.321:

Omit the clause, substitute:

“814.321 An applicant meets the requirements of this clause if:

- (a) either:
  - (i) the applicant is the holder of a Subclass 445 (Dependent Child) visa or a Subclass 826 (Interdependency) visa granted on the basis that the applicant was the dependent child of another person who was the holder of a Subclass 826 visa; or
  - (ii) the applicant was the holder of a Subclass 445 visa or a Subclass 826 visa which ceased on notification of a decision to refuse a Subclass 814 visa to the

**PART 3—AMENDMENTS HAVING EFFECT ON  
3 APRIL 1995****9. Regulation 1.03 (Interpretation)****9.1 Definition of “fiscal year”:**

After “business” (wherever occurring), insert “or investment”

**10. Regulation 1.20 (Sponsorship)****10.1 Paragraph 1.20 (2) (a):**

Omit “or Subclass 130 (State/Territory Sponsored Senior Executive) visa”, substitute “, Subclass 130 (State/Territory Sponsored Senior Executive), Subclass 842 (State/Territory Sponsored Business Owner) or Subclass 843 (State/Territory Sponsored Senior Executive) visa”.

**11. New regulation 2.06A****11.1 After regulation 2.06, insert in Division 2.1:****Certain visas to state period that holder may stay in Australia**

“2.06A. (1) This regulation applies to Long Stay (Visitor) (Class TN) visas that are granted to an applicant in whose case the risk factor referred to in public interest criterion 4011 is present.

“(2) A visa to which this regulation applies must specify as the period during which the holder is authorised to stay in Australia a period not longer than:

- (a) 6 months; or
- (b) if the Minister determines that a shorter period would be adequate to meet the needs of the holder, having regard to the reasons for, and the circumstances of the grant, of the visa—that shorter period.

“(3) This regulation does not affect any provision imposing, or authorising the imposition of, conditions in relation to the grant of a visa.”.

**12. Regulation 2.07A (Refund of application fee in certain circumstances)**

**12.1 Paragraph 2.07A (a):**

Omit “or Short Stay (Visitor) (Class TR) visa”, substitute “, Medical Treatment (Visitor) (Class UB) or Short Stay (Visitor) (Class TR) visa”.

**12.2 Paragraph 2.07A (b):**

Omit the paragraph, substitute:

“(b) the Minister is satisfied that the applicant meets the requirements of subclause 672.221 (4), 675.221 (4), 676.221 (4), 682.221 (4), 685.221 (6) or 686.221 (4) of Schedule 2; and”.

**13. Regulation 2.10 (Where application must be made)**

**13.1 Subparagraph 2.10 (1) (a) (ii):**

Omit “Short Stay (Visitor) (Class TR) or Special Tourist (Visitor) (Class TS)”, substitute “Medical Treatment (Visitor) (Class UB) or Short Stay (Visitor) (Class TR)”.

**14. Regulation 2.11 (Special provision for certain applications refused outside Australia)**

**14.1 Subregulation 2.11 (2):**

Add at the end:

“; and (e) if the visa originally applied for was a Return (Residence) (Class BB) visa, the Minister may invite the applicant to make a further application for a Resident Return (Temporary) (Class TP) visa.”.

**15. Regulation 2.12 (Certain non-citizens whose applications refused in Australia (Act, s. 48))**

**15.1 Paragraph 2.12 (1) (ca):**

Omit “Long Stay (Visitor) (Class TN)”, substitute “Medical Treatment (Visitor) (Class UB)”.

**16. Regulation 2.15 (Response to invitation to give information or comments—prescribed periods)**

16.1 Sub-subparagraph 2.15 (1) (b) (ii) (A):

Omit “or Short Stay (Visitor) (Class TR)”, substitute “, Medical Treatment (Visitor) (Class UB) or Short Stay (Visitor) (Class TR)”.

16.2 Subparagraph 2.15 (3) (b) (i):

Omit “or Short Stay (Visitor) (Class TR)”, substitute “, Medical Treatment (Visitor) (Class UB) or Short Stay (Visitor) (Class TR)”.

**17. Regulation 2.40 (Persons having a prescribed status—special purpose visas (Act, s. 33 (2) (a)))**

17.1 Subregulation 2.40 (1):

Add at the end:

“; (r) Indonesian citizens visiting the casino on Christmas Island.”.

17.2 Subregulation 2.40 (10):

Omit “5 working days”, substitute “30 days”.

17.3 Add at the end:

[*Christmas Island casino visitors*]

“(14) A person included in a class of persons specified in paragraph (1) (r) has a prescribed status only:

(a) while he or she is travelling directly from Indonesia to Christmas Island; and

(b) either:

(i) until the end of 5 days after his or her arrival on Christmas Island; or

(ii) until he or she leaves the island;

whichever is the sooner; and

if and only if he or she:

(c) holds and produces an Indonesian passport that is in force; and

(d) carries a valid invitation acceptable to the Minister to visit the casino.”.



**18. Regulation 4.08 (Response to invitation to give information or comments on internal review of decision—prescribed periods)**

18.1 Subparagraph 4.08 (1) (a) (i):

Omit “or Short Stay (Visitor) (Class TR)”, substitute “, Medical Treatment (Visitor) (Class UB) or Short Stay (Visitor) (Class TR)”.

18.2 Subparagraph 4.08 (3) (a) (i):

Omit “or Short Stay (Visitor) (Class TR)”, substitute “, Medical Treatment (Visitor) (Class UB) or Short Stay (Visitor) (Class TR)”.

**19. Regulation 4.23 (Expedited review (close family visit visas))**

19.1 Omit the regulation, substitute:

**Expedited review (close family visit visas)**

“4.23. (1) This regulation applies to review of a decision to refuse to grant a Long Stay (Visitor) (Class TN) or Short Stay (Visitor) (Class TR) visa if and only if:

- (a) the applicant stated in his or her application that he or she intended to visit Australia, or remain in Australia as a visitor, for the purposes of visiting an Australian citizen or an Australian permanent resident who is a parent, spouse, child, brother or sister of the applicant; and
- (b) that application was made to allow the applicant to participate in an event of special family significance in which he or she is directly concerned; and
- (c) the applicant identified the event and the applicant’s concern in that application; and
- (d) that application was refused because either:
  - (i) the Minister was not satisfied that the expressed intention of the applicant only to visit Australia was genuine; or
  - (ii) the applicant did not satisfy public interest criterion 4011; and
- (e) the application was made long enough before the event to allow for internal review, and review by the Tribunal, if the application were refused.

“(2) The refusal of that application must be reviewed immediately by a review officer on receipt of an application for internal review.

“(3) A decision of a review officer must be reviewed immediately by the Tribunal on receipt of an application for review of the decision.

“(4) A review authority must give notice to the applicant of its decision in respect of an application for review as soon as practicable.

## **20. Regulation 5.17 (Prescribed evidence of English language proficiency (Act, s. 5 (2) (b)))**

20.1 Paragraph 5.17 (h):

Omit “Business Skills (Migrant) class”, substitute “Business Skills (Migrant) (Class AD) or Business Skills (Residence) (Class BH)”.

## **21. New regulation 5.19A**

21.1 After regulation 5.19, insert in Division 5.3:

### **Designated investment**

“5.19A. (1) Subject to subregulation (2), the Minister may specify by Gazette Notice a security issued by an Australian State or Territory government authority as a security in which an investment is a designated investment for the purposes of a Part of Schedule 2.

- “(2) The Minister may so specify a security if and only if:
- (a) an investment in the security matures in not less than 3 years from its date of issue; and
  - (b) repayment of principal is guaranteed by the issuing authority; and
  - (c) an investment in the security cannot be transferred or redeemed before maturity except by operation of law or under other conditions acceptable to the Minister; and
  - (d) investment in the security is open to the general public at commercially competitive rates of return; and

- (e) the Minister is satisfied that the Commonwealth will not be exposed to any liability as a result of an investment in the security by a person.”.

**22. Schedule 1 (Classes of visas)**

22.1 Subitem 1104 (1):

Omit “, 927”.

22.2 Subitem 1104 (4):

Add at the end:

“131 (Investment-linked)”.

22.3 New item 1104A:

After item 1104, insert:

**“1104A. Business Skills (Residence) (Class BH)**

- (1) Form: 1029
- (2) Fee: \$1715
- (3) Other:
  - (a) Application must be made in Australia, but not in immigration clearance.
  - (b) The applicant must be in Australia, but not in immigration clearance.
  - (c) Application by a person claiming to be a member of the family unit of an applicant may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
  - 840 (Business Owner)
  - 841 (Senior Executive)
  - 842 (State/Territory Sponsored Business Owner)
  - 843 (State/Territory Sponsored Senior Executive)
  - 844 (Investment-linked)
  - 845 (Established Business in Australia)”.

## 22.4 Subitem 1214 (4):

Omit the subitem, substitute:

“(4) Subclasses: 682 (Business (Long Stay))  
686 (Tourist (Long Stay))”.

## 22.5 New item 1214A:

After item 1214, insert:

**“1214A. Medical Treatment (Visitor) (Class UB)**

- (1) Form: (a) If the applicant is outside Australia (whether or not the application is made outside Australia): 48ME.  
(b) If the applicant is in Australia: 601.
- (2) Fee: (a) If the applicant is outside Australia (whether or not the application is made outside Australia):  
(i) if the applicant seeks a visa that will permit him or her to remain in Australia for a period of more than 3 months: \$30; or  
(ii) if the applicant seeks a visa that will permit him or her to travel to, and enter, Australia for a period of:  
(A) 4 years; or  
(B) the remaining period of validity of the applicant’s passport, if that period is more than 12 months:  
\$30; or  
(iii) in any other case: Nil.  
(b) If the applicant is in Australia: \$135.  
(c) The Minister may waive the fee for an application by a person who applies as the representative of a foreign government.

- (3) Other:
- (a) Application may be made in or outside Australia, but not in immigration clearance.
  - (b) If the applicant is outside Australia, the application may be made in the migration zone if and only if no fee is payable on the application.
  - (c) Application by a person included in the passport of another person may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses: 675 (Medical Treatment (Short Stay))  
685 (Medical Treatment (Long Stay))”.

22.6 Subitem 1218 (4):

Omit the subitem, substitute:

- “(4) Subclasses: 672 (Business (Short Stay))  
676 (Tourist (Short Stay))”.

22.7 Item 1220:

Omit the item.

22.8 Paragraph 1303 (3) (e):

After “criminal detention”, insert “and has not escaped from either immigration detention or criminal detention”.

22.9 After paragraph 1305 (3) (b), insert:

“(ba) Applicant must be an eligible non-citizen within the meaning of section 72 of the Act.”.

## **23. Schedule 2, Part 100 (Spouse)**

23.1 Paragraph 100.228 (1) (b):

Omit “5009 and 5010”, substitute “5008 and 5009”.

**24. Schedule 2, Part 102 (Adoption)**

24.1 Clause 102.224:

Omit “, 5007, 5008 and 5010”, substitute “and 5007 to 5010”.

**25. Schedule 2, Part 127 (Business Owner)**

25.1 Paragraph 127.222 (2) (c):

Omit the paragraph, substitute:

- “(c) in determining the score of an applicant under Part 4 of Schedule 7, only:
- (i) assets in Australia; or
  - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
- are to be taken into account.”.

**26. Schedule 2, Part 128 (Senior Executive)**

26.1 Paragraph 128.222 (2) (c):

Omit the paragraph, substitute:

- “(c) in determining the score of an applicant under Part 4 of Schedule 7, only:
- (i) assets in Australia; or
  - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
- are to be taken into account.”.

**27. Schedule 2, Part 129 (State/Territory Sponsored Business Owner)**

27.1 Subparagraph 129.222 (2) (b) (i):

After “Part 3”, insert “or Part 5”.

27.2 Paragraph 129.222 (2) (c):

Omit the paragraph, substitute:

- “(c) in determining the score of an applicant under Part 4 of Schedule 7, only:

- (i) assets in Australia; or
  - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
- are to be taken into account.”.

27.3 Clause 129.227:

Omit the clause, substitute:

“129.227 (1) The applicant has been sponsored (on approved form 949) by an appropriate regional authority.

- (2) The sponsorship must:
  - (a) be given by the authority that gave the notification referred to in subclause 129.215 (2); and
  - (b) be signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
  - (c) bear the seal of the authority; and
  - (d) be given to the Minister within 90 days after the Minister asks for it; and
  - (e) be the first sponsorship of that kind given by the applicant to the Minister.”.

## **28. Schedule 2, Part 130 (State/Territory Sponsored Senior Executive)**

28.1 Paragraph 130.222 (2) (c):

Omit the paragraph, substitute:

- “(c) in determining the score of an applicant under Part 4 of Schedule 7, only:
  - (i) assets in Australia; or
  - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;are to be taken into account.”.

28.2 Clause 130.227:

Omit the clause, substitute:

“130.227 (1) The applicant has been sponsored (on approved form 949) by an appropriate regional authority.

- (2) The sponsorship must:
  - (a) be given by the authority that gave the notification referred to in subclause 130.213 (2); and
  - (b) be signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
  - (c) bear the seal of the authority; and
  - (d) be given to the Minister within 90 days after the Minister asks for it; and
  - (e) be the first sponsorship of that kind given by the applicant to the Minister.”.

**29. Schedule 2, new Part 131**

29.1 After Part 130, insert Part 131 set out in the Schedule.

**30. Schedule 2, Part 155 (Five Year Return)**

30.1 Subclause 155.211 (4):

Omit “paragraph (3) (d)”, substitute “paragraph (3) (f)”.

**31. Schedule 2, Part 411 (Exchange)**

31.1 Clause 411.221:

Omit “411.227”, substitute “411.226”.

**32. Schedule 2, Part 413 (Executive)**

32.1 Paragraph 413.223 (b):

Omit “regulation 7.27”, substitute “regulation 5.38”.

**33. Schedule 2, Part 414 (Specialist)**

33.1 Paragraph 414.224 (b):

Omit “regulation 7.27”, substitute “regulation 5.38”.

**34. Schedule 2, Part 415 (Foreign Government Agency)**

34.1 Clause 415.221:

Omit “415.231”, substitute “415.230”.

34.2 Paragraph 415.224 (b):

Omit “regulation 7.27”, substitute “regulation 5.38”.



**35. Schedule 2, Part 418 (Educational)**

35.1 Paragraph 418.224 (b):

Omit “regulation 7.27”, substitute “regulation 5.38”.

**36. Schedule 2, Part 420 (Entertainment)**

36.1 Clause 420.221:

Omit “422.230”, substitute “420.229”.

36.2 Clause 420.224:

Omit “regulation 7.27”, substitute “regulation 5.38”.

**37. Schedule 2, Part 422 (Medical Practitioner)**

37.1 Paragraph 422.222 (d):

Omit “regulation 7.27”, substitute “regulation 5.38”.

**38. Schedule 2, Part 423 (Media and Film Staff)**

38.1 Paragraph 423.223 (b):

Omit “regulation 7.27”, substitute “regulation 5.38”.

**39. Schedule 2, Part 424 (Public Lecturer)**

39.1 Paragraph 424.225 (b):

Omit “regulation 7.27”, substitute “regulation 5.38”.

39.2 Clause 424.228:

Omit “5007, 5009 and 5010”, substitute “5007 to 5009”.

39.3 Clause 424.326:

Omit “5007, 5009 and 5010”, substitute “5007 to 5009”.

**40. Schedule 2, Part 426 (Domestic Worker (Temporary)—  
Diplomatic or Consular)**

40.1 Clause 426.221:

Omit “426.229”, substitute “426.228”.

**41. Schedule 2, Part 427 (Domestic Worker (Temporary)—Executive)**

41.1 Clause 427.231:

Omit “regulation 7.27”, substitute “regulation 5.38”.

**42. Schedule 2, Part 428 (Religious Worker)**

42.1 Clause 428.222:

Omit “regulation 7.27”, substitute “regulation 5.38”.

**43. Schedule 2, Part 661 (Special Tourist)**

43.1 Omit the Part.

**44. Schedule 2, Part 670 (Tourist (Short Stay))**

44.1 Omit the Part.

**45. Schedule 2, Part 673 (Close Family Visitor (Short Stay))**

45.1 Omit the Part.

**46. Schedule 2, Part 674 (Visitor Other (Short Stay))**

46.1 Omit the Part.

**47. Schedule 2, Part 675 (Medical Treatment (Short Stay))**

47.1 Paragraphs 675.212 (2) (c) and (d):

Omit the paragraphs.

47.2 Paragraph 675.212 (3) (b):

Omit “subclause; and”, substitute “subclause.”.

47.3 Paragraphs 675.212 (3) (c) and (d):

Omit the paragraphs.

47.4 Paragraph 675.212 (4) (a):

Omit “to travel to Australia”.

47.5 Paragraph 675.212 (4) (b):

Omit “requires; and”, substitute “requires.”.

47.6 Paragraphs 675.212 (4) (c) and (d):

Omit the paragraphs.

47.7 Paragraphs 675.221 (2) (f), (g) and (h):

Omit the paragraphs, substitute:

“(f) if the applicant is a person described in subclause 675.212 (2):

- (i) the applicant satisfies the Minister that the applicant does not suffer from a condition that could be a threat to public health in Australia; and
- (ii) the applicant satisfies the Minister that arrangements have been concluded for the payment of all costs related to the treatment referred to in paragraph 675.212 (2) (a) and all other expenses of the applicant’s stay in Australia, including the expenses of any person accompanying the applicant; and
- (iii) the applicant satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and

(g) if the applicant is a person described in subclause 675.212 (3), the applicant satisfies the Minister that:

- (i) the applicant:
  - (A) is free from tuberculosis or any other communicable disease of a fatal or serious nature that, in the opinion of a Commonwealth medical officer, is a threat to public health in Australia; and
  - (B) is not suspected of having contracted a disease of that kind; and
- (ii) the applicant is free from any other disease or condition that, in the opinion of a Commonwealth medical officer, would be a danger to members of the Australian community; and
- (iii) the applicant is free from any disease or condition (other than a disease or condition normally related to the organ transplant for which the

applicant is coming to Australia) that, during the applicant's proposed period of stay in Australia, would, in the opinion of a Commonwealth medical officer:

- (A) require care or treatment (or both) involving the use of community resources in short supply; or
  - (B) result in the applicant becoming a significant charge on public funds; and
- (iv) arrangements have been concluded for the payment of all costs related to the organ transplant referred to in paragraph 675.212 (3) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
  - (v) except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
- (h) if the applicant is a person described in subclause 675.212 (4), the applicant:
    - (i) satisfies public interest criterion 4005; and
    - (ii) satisfies the Minister that arrangements have been concluded for the payment of all costs related to procedures to be undergone by the person to whom the applicant seeks to provide support, including the expenses of the applicant's stay in Australia; and
    - (iii) satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and".

47.8 Paragraph 675.221 (3) (c):  
Omit “criterion 4005.”, substitute “criterion 4005, except paragraph (c) of that criterion.”.

**48. Schedule 2, new Part 676**

48.1 After Part 675, insert Part 676 set out in the Schedule.

**49. Schedule 2, Part 680 (Tourist (Long Stay))**

49.1 Omit the Part.

[NOTE: The following note should be inserted after the heading to Division 682.2:

“[NOTE: All applicants must satisfy the primary criteria.]”.]

**50. Schedule 2, Part 683 (Close Family Visitor (Long Stay))**

50.1 Omit the Part.

**51. Schedule 2, Part 684 (Visitor Other (Long Stay))**

51.1 Omit the Part.

**52. Schedule 2, Part 685 (Medical Treatment (Long Stay))**

52.1 Paragraph 685.212 (2) (a):  
Omit “to travel to Australia”.

52.2 Paragraphs 685.212 (2) (c) and (d):  
Omit the paragraphs.

52.3 Paragraph 685.212 (3) (a):  
Omit “to travel to Australia”.

52.4 Paragraphs 685.212 (3) (b):  
Omit “subclause; and”, substitute “subclause.”.

52.5 Paragraphs 685.212 (3) (c) and (d):  
Omit the paragraphs.

52.6 Paragraph 685.212 (4) (a):  
Omit “to travel to Australia”.

52.7 Paragraphs 685.212 (4) (b):  
Omit “requires; and”, substitute “requires.”.

52.8 Paragraphs 685.212 (4) (c) and (d):  
Omit the paragraphs.

52.9 Paragraph 685.212 (6) (c):  
After subparagraph 685.212 (6) (c) (i), insert:

- “(ia) for a section 47 temporary entry permit (within the meaning of the Migration (1993) Regulations); or
- (ib) for an extended eligibility entry permit (within the meaning of the Migration (1989) Regulations); or”.

52.10 Paragraphs 685.221 (2) (f), (g) and (h):  
Omit the paragraphs, substitute:

- “(f) if the applicant is a person described in subclause 685.212 (2):
  - (i) the applicant satisfies the Minister that the applicant does not suffer from a condition that could be a threat to public health in Australia; and
  - (ii) the applicant satisfies the Minister that arrangements have been concluded for the payment of all costs related to the treatment referred to in paragraph 685.212 (2) (a) and all other expenses of the applicant’s stay in Australia, including the expenses of any person accompanying the applicant; and
  - (iii) the applicant satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and

- (g) if the applicant is a person described in subclause 685.212 (3) the applicant satisfies the Minister that:
  - (i) the applicant:
    - (A) is free from tuberculosis or any other communicable disease of a fatal or serious nature that, in the opinion of a Commonwealth medical officer, is a threat to public health in Australia; and
    - (B) is not suspected of having contracted a disease of that kind; and
  - (ii) the applicant is free from any other disease or condition that, in the opinion of a Commonwealth medical officer, would be a danger to members of the Australian community; and
  - (iii) the applicant is free from any disease or condition (other than a disease or condition normally related to the organ transplant for which the applicant is coming to Australia) that, during the applicant's proposed period of stay in Australia, would, in the opinion of a Commonwealth medical officer:
    - (A) require care or treatment (or both) involving the use of community resources in short supply; or
    - (B) result in the applicant becoming a significant charge on public funds; and
  - (iv) arrangements have been concluded for the payment of all costs related to the organ transplant referred to in paragraph 685.212 (3) (a) and all other expenses of the applicant's stay in Australia, including the expenses of any person accompanying the applicant; and
  - (v) except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and
- (h) if the applicant is a person described in subclause 685.212 (4), the applicant:
  - (i) satisfies public interest criterion 4005; and

- (ii) satisfies the Minister that arrangements have been concluded for the payment of all costs related to procedures to be undergone by the person to whom the applicant seeks to provide support, including the expenses of the applicant's stay in Australia; and
- (iii) satisfies the Minister that, except where evidence is produced that the relevant government authority has otherwise approved, the payment of those costs will not be a charge on the Commonwealth, a State, a Territory or any public authority in Australia; and".

52.11 Paragraph 685.221 (3) (d):

Omit "criterion 4005.", substitute "criterion 4005, except paragraph (c) of that criterion."

### **53. Schedule 2, new Part 686**

53.1 After Part 685, insert Part 686 set out in the Schedule.

### **54. Schedule 2, Part 773 (Border)**

54.1 Subparagraph 773.213 (1) (g) (iii):

Omit the subparagraph , substitute:

- “(iii) is apparently eligible for a Long Stay (Visitor) (Class TN) visa, a Short Stay (Visitor) (Class TR) visa or, apart from the applicant being in Australia, a Transit (Temporary) (Class TX) visa.”.

### **55. Schedule 2, Part 801 (Spouse)**

[NOTE: The note following the heading to Division 801.2 should be replaced by the following note:

“[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.]”.



[NOTE: The note following the heading to Division 801.3 of the Schedule should be replaced by the following note:

“[NOTE: A 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 and his or her application is made before the Minister has decided to grant or refuse to grant the visa to the applicant parent.]”.]

55.1 Subdivision 801.31:

Omit the Subdivision, substitute:

**“801.31 Criteria to be satisfied at time of application**

“801.311 The applicant is a dependent child of a person who has applied for a General (Residence) (Class AS) visa, and the Minister has not decided to grant or refuse to grant a visa to the person.”.

**56. Schedule 2, Part 802 (Child)**

[NOTE: The note following the heading to Division 802.3 of the Schedule should be replaced by the following note:

“[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.]”.]

56.1 Clause 802.311:

Omit the clause, substitute:

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

- (a) has applied for:
  - (i) a Change in Circumstance (Residence) (Class AG) visa; or
  - (ii) Family (Residence) (Class AO) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 802.21;

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

56.2 Clause 802.321:

Omit the clause, substitute:

“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.”.

## **57. Schedule 2, Part 804 (Aged Parent)**

[NOTE: The Note following the heading to Division 804.3 of the Schedule should be omitted and the following Note substituted:

“[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.]”.]

57.1 Clause 804.311:

Omit the clause, substitute:

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

- (a) has applied for:
  - (i) a Change in Circumstance (Residence) (Class AG) visa; or
  - (ii) a Family (Residence) (Class AO) visa; or
  - (iii) a General (Residence) (Class AS) 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.”.

57.2 Clause 804.321:

Omit the clause, substitute:

“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.”.

**58. Schedule 2, Part 805 (Skilled)**

[NOTE: The Note following the heading to Division 805.3 of the Schedule should be replaced by the following Note:

“[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.]”.]

**58.1 Subclause 805.212 (1):**

Omit “The applicant”, substitute “Subject to subclause (1A), the applicant”.

**58.2 Subclause 805.212 (1A):**

After subclause 805.212 (1), insert:

“(1A) Subclause (1) does not apply to an applicant who does not hold a substantive visa if he or she would have satisfied the requirements of that subclause if the application had been made immediately before his or her substantive visa ceased.”.

**58.3 Subclause 805.212 (3):**

Omit the subclause, substitute:

- “(3) An applicant meets the requirements of this subclause if:
  - (a) he or she:
    - (i) held 1 or more Group 2.6 (refugee and humanitarian (temporary entry)) entry permits under the Migration (1993) Regulations permitting temporary residence in Australia for a total period of more than 12 months; and
    - (ii) is taken to hold a transitional (temporary) visa under the Migration Reform (Transitional Provisions) Regulations on the basis that he or she held a Group 2.6 (refugee and humanitarian (temporary entry)) entry permit under the Migration (1993) Regulations immediately before 1 September 1994; or

- (b) he or she:
- (i) held 1 or more Subclass 443 (Citizens of Former Yugoslavia) or 435 (Sri Lankan) visas permitting temporary residence in Australia for a total period of more than 12 months; and
  - (ii) holds a Subclass 443 or 435 visa.”.

58.4 Subclause 805.212 (8):

Omit the subclause.

58.5 Clauses 805.311 and 805.312:

Omit the clauses, substitute:

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

- (a) has applied for a General (Residence) (Class AS) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 805.21;

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

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

58.6 Clause 805.321:

Omit the clause, substitute:

“805.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 805 visa.”.

## **59. Schedule 2, Part 806 (Family)**

[NOTE: The note following the heading to Division 806.3 of the Schedule should be replaced by the following note:

“[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.]”.]

59.1 Clause 806.311:

Omit the clause, substitute:

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

- (a) has applied for a visa of any of the following classes:
  - (i) a Change in Circumstance (Residence) (Class AG); or
  - (ii) a Family (Residence) (Class AO); or
  - (iii) a General (Residence) (Class AS); and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 806.21;

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

59.2 Clause 806.321:

Omit the clause, substitute:

“806.321 The applicant is a member of the family unit of a person who, having satisfied the primary criteria, is the holder of a Subclass 806 visa.”.

**60. Schedule 2, Part 814 (Interdependency)**

[NOTE: The note following the heading to Division 814.2 should be replaced by the following note:

“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.”.]

[NOTE: The note following the heading to Division 814.3 should be replaced by the following note:

“[NOTE: A 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 and his or her application is made before the Minister has decided to grant or refuse to grant the visa to the applicant parent.]”

60.1 Subdivision 814.31:

Omit the subdivision, substitute:

**“814.31 Criteria to be satisfied at time of application**

“814.311 The applicant is a dependent child of a person who has applied for a General (Residence) (Class AS) visa, and the Minister has not decided to grant or refuse to grant a visa to that person.”.

**61. Schedule 2, Part 820 (Spouse)**

[NOTE: The notes following the headings to Division 820.2 and 820.3 should be replaced by the following notes respectively:

“[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.]”

“[NOTE: 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.]”.]

61.1 Clause 820.311:

Omit the clause, substitute:

“820.311 The applicant is a dependent child of a person who has applied for a General (Residence) (Class AS) visa, and:

- (a) the nomination (if any) in respect of that person includes the applicant; and
- (b) the Minister has not decided to grant or refuse to grant a visa to that person.”.

**62. Schedule 2, Part 826 (Interdependency)**

[NOTE: The notes following the headings to Division 826.2 and 826.3 should be replaced by the following notes respectively:

“[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.]

“[NOTE: 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.]”.]

**62.1 Clause 826.311:**

Omit the clause, substitute:

“826.311 The applicant is a dependent child of a person who has applied for a General (Residence) (Class AS) visa, and:

- (a) the nomination (if any) in respect of that person includes the applicant; and
- (b) the Minister has not decided to grant or refuse to grant a visa to that person.”.

**63. Schedule 2, Part 831 (Prospective Marriage Spouse)****63.1 Clause 831.311:**

Omit the clause, substitute:

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

- (a) has applied for a Family (Residence) (Class AO) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 831.21;

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

**64. Schedule 2, Part 832 (Close Ties)**

64.1 Clause 832.311:

Omit the clause, substitute:

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

- (a) has applied for:
  - (i) a Family (Residence) (Class AO) visa; or
  - (ii) a General (Residence) (Class AS) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 832.21;

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

64.2 Clause 832.321:

Omit “continues to be”, substitute “is”.

**65. Schedule 2, Part 833 (Certain Unlawful Non-Citizens)**

65.1 Clause 833.311:

Omit the clause, substitute:

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

- (a) has applied for a Change in Circumstance (Residence) (Class AG) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 833.21;

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

**66. Schedule 2, new Parts 840 to 845**

66.1 After Part 834, insert Parts 840, 841, 842, 843, 844 and 845 set out in the Schedule.



**67. Schedule 2, Part 866 (Protection (Residence))**

67.1 Clause 866.411:

Omit the clause, substitute:

“866.411 The applicant must be in Australia.”.

**68. Schedule 5, Part 2 (Conditions applicable to certain subclasses of visas for the purposes of clauses 5004 and 5005)**

68.1 After item 14, insert:

“14A 676 Tourist (Short Stay) 8101 or 8201”.

68.2 After item 19, insert:

“19A 686 Tourist (Long Stay) 8101 or 8201”.

**69. Schedule 6 (General points test—qualifications and points)**

69.1 Item 6311:

Omit “5.0”, substitute “4.5”.

**70. Schedule 7 (Business skills points test—attributes and points)**

70.1 Omit Parts 1, 2 and 3 of the Schedule, substitute:

**“PART 1—BUSINESS ATTRIBUTES*****Division 1.1—Applicant’s main business or main businesses  
(Subclass 127, 129, 840 and 842 visas)******Subdivision 1.1.1—Annual turnover and employee levels***

- |      |   |    |
|------|---|----|
| 7101 | <p>In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant’s main business, or the applicant’s main businesses together:</p> <p>(a) had an annual turnover equivalent to not less than AUD 5,000,000; and</p> <p>(b) employed not fewer than:</p> | 60 |
|------|---|----|

- (i) in the case of an applicant for a Subclass 127 (Business Owner) or 840 (Business Owner) visa— 5 full-time employees; or
- (ii) in the case of an applicant for a Subclass 129 (State/Territory Sponsored Business Owner) or 842 (State/Territory Sponsored Business Owner) visa— 3 full-time employees

7102

In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together:

55

- (a) had an annual turnover equivalent to not less than AUD 3,000,000; and
- (b) employed not fewer than:
  - (i) in the case of an applicant for a Subclass 127 (Business Owner) or 840 (Business Owner) visa— 5 full-time employees; or
  - (ii) in the case of an applicant for a Subclass 129 (State/Territory Sponsored Business Owner) or 842 (State/Territory Sponsored Business Owner) visa— 3 full-time employees

- 7103 In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together: 50
- (a) had an annual turnover equivalent to not less than AUD 1,500,000; and
  - (b) employed not fewer than:
    - (i) in the case of an applicant for a Subclass 127 (Business Owner) or 840 (Business Owner) visa— 5 full-time employees; or
    - (ii) in the case of an applicant for a Subclass 129 (State/Territory Sponsored Business Owner) or 842 (State/Territory Sponsored Business Owner) visa— 3 full-time employees
- 7104 In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together: 40
- (a) had an annual turnover equivalent to not less than AUD 750,000; and
  - (b) employed not fewer than:
    - (i) in the case of an applicant for a Subclass 127 (Business Owner) or 840 (Business Owner) visa— 5 full-time employees; or

- (ii) in the case of an applicant for a Subclass 129 (State/Territory Sponsored Business Owner) or 842 (State/Territory Sponsored Business Owner) visa—  
3 full-time employees

7105

In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together:

35

- (a) had an annual turnover equivalent to not less than AUD 500,000; and
- (b) employed not fewer than:
  - (i) in the case of an applicant for a Subclass 127 (Business Owner) or 840 (Business Owner) visa—  
5 full-time employees;  
or
  - (ii) in the case of an applicant for a Subclass 129 (State/Territory Sponsored Business Owner) or 842 (State/Territory Sponsored Business Owner) visa—  
3 full-time employees

**Subdivision 1.1.2—Labour costs**

- |      |  |    |
|------|--|----|
| 7121 | In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together, had labour costs equivalent to not less than AUD 250,000 but less than AUD 500,000 | 5  |
| 7122 | In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together, had labour costs equivalent to not less than AUD 500,000                           | 10 |

**Subdivision 1.1.3—Total assets**

- |      |   |    |
|------|---|----|
| 7131 | In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together, had total assets of a value equivalent to not less than AUD 750,000 but less than AUD 1,500,000 | 5  |
| 7132 | In each of any 2 of the 4 fiscal years immediately preceding the making of the application, the applicant's main business, or the applicant's main businesses together, had total assets of a value equivalent to not less than AUD 1,500,000                           | 10 |

**Division 1.2—Business employing the applicant (Subclass 128, 130, 841 and 843 visas)**

- |      |  |    |
|------|--|----|
| 7151 | The applicant was employed in a major business (within the meaning of clause 128.111, 130.111, 841.111 or 843.111, as the case requires, of Schedule 2) in each of any 2 of the 4 fiscal years immediately preceding the making of the application | 65 |
|------|--|----|

***Division 1.3—Business attributes (investment-linked)  
(Subclass 131 and 844 visas)***

7160	The applicant, or the applicant and members of his or her family unit, have made a designated investment of an amount of AUD2,000,000	80
7161	The applicant, or the applicant and members of his or her family unit, have made a designated investment of an amount of AUD1,500,000	70
7162	The applicant, or the applicant and members of his or her family unit, have made a designated investment of an amount of AUD1,000,000	65
7163	The applicant, or the applicant and members of his or her family unit, have made a designated investment of an amount of AUD750,000	60

**Division 1.4—Established business in Australia  
(Subclass 845 visas)**

7170	<p>During the period of 12 months immediately preceding the making of the application, the main business or main businesses of the applicant or that of the applicant and the applicant's spouse:</p> <p>(a) employed not less than 3 full-time employees (or a number of part-time employees working an equivalent number of hours) each of whom:</p> <p style="padding-left: 20px;">(i) is not the applicant or a member of the family unit of the applicant; and</p> <p style="padding-left: 20px;">(ii) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and</p> <p>(b) either:</p> <p style="padding-left: 20px;">(i) had a turnover of not less than AUD 200,000; or</p> <p style="padding-left: 20px;">(ii) exported goods or services of a value of not less than AUD100,000</p>	60
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**PART 2—AGE OF APPLICANT AT  
TIME OF APPLICATION**

7201	Not less than 30 years but less than 45 years	30
7202	Not less than 45 years but less than 50 years	25
7203	Not less than 20 years but less than 30 years	20

7204	Not less than 50 years but less than 55 years	10
7205	Less than 20 years or 55 years or more	0

**PART 3—LANGUAGE ABILITY OF APPLICANT***Division 3.1—Language ability of applicant  
(Subclasses 127-130, 840-843 and 845)*

7301	Better than functional ability in English	30
7302	Functional ability in English	20
7303	Bilingual in languages other than English	10
7304	Limited ability in English	10
7305	No ability in English	0

*Division 3.2—Language ability of applicant  
(Subclasses 131 and 844)*

7306	Better than functional ability in English	35
7307	Functional ability in English	25
7308	Bilingual in languages other than English	15
7309	Limited ability in English	15
7310	No ability in English	0



**71. Schedule 8 (Visa conditions)**

## 71.1 Item 8108:

After “3 months”, insert “, without the prior permission in writing of the Secretary”.

**72. Schedule 9 (Special entry and clearance arrangements)**

## 72.1 Part 1 (Items 16 and 17):

Omit the items, substitute:

“16	members of the crew of a non-military ship that, in the course of a voyage from a place outside Australia to a place outside Australia, calls at either: (a) a proclaimed port; or (b) if permission has been given under section 58 of the <i>Customs Act 1901</i> for it to do so, a port other than a proclaimed port	identity document or passport	No
17	non-citizen in respect of whom the Minister has made a declaration under paragraph 33 (2) (b) of the Act	passport	Yes
18	Indonesian citizens visiting the casino on Christmas Island	Indonesian passport and valid invitation acceptable to the Minister to visit the casino	Yes”.

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[NOTE: In the note following Part 1, “of the Act” should be inserted after “Paragraph 33 (2) (b)” .]

**73. Transitional**

73.1 Despite the omission and substitution of regulation 4.23 by regulation 19, regulation 4.23 as in force before the commencement of these Regulations continues to apply to applications for a Long Stay (Visitor) (Class TN) or Short Stay (Visitor) (Class TR) visa made before the commencement of these Regulations.

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**SCHEDULE**

Regulations 29, 48,  
53 and 66

**NEW PARTS TO BE INSERTED IN SCHEDULE 2**

**SUBCLASS 131—INVESTMENT-LINKED**

**131.1 INTERPRETATION**

131.111 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;

**“eligible investment”** in relation to a person means:

- (a) an ownership interest in a business; or
- (b) a loan to a business; or
- (c) cash on deposit; or
- (d) stocks and bonds; or
- (e) real estate; or
- (f) gold or silver bullion;

that is owned by the person for the purposes of producing a return by way of income or capital gain and is not held for personal use.

[NOTE: “AUD”, “fiscal year”, “ownership interest” and “qualifying business” are defined in regulation 1.03.]

**131.2 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.]

**131.21 Criteria to be satisfied at time of application**

131.211 The Minister is satisfied that the applicant has demonstrated a high level of management skill in relation to the eligible investment or qualifying business activity.

131.212 The applicant has demonstrated overall a successful record of eligible investment or qualifying business activity.

131.213 (1) The applicant has had a total of at least 3 years experience of direct involvement in managing 1 or more qualifying businesses or eligible investments.

(2) Throughout at least 1 of the 5 fiscal years immediately preceding the making of the application:

(a) the applicant maintained direct involvement in managing a qualifying business in which:

(i) the applicant; or

(ii) the applicant and his or her spouse together;

had an ownership interest of at least 10% of the total value of the business; or

(b) the applicant maintained direct involvement in managing eligible investments of:

(i) the applicant; or

(ii) the applicant and his or her spouse together;

the total net value of which was at least AUD1,000,000.

(3) The total net value of the assets owned by:

(a) the applicant; or

(b) the applicant and his or her spouse together;

throughout the 2 fiscal years immediately preceding the making of the application was at least 50% more than the value of the funds to be deposited in the designated investment in the name of the applicant, or in the names of the applicant and members of his or her family unit, as the case requires.

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

131.215 The applicant genuinely has a realistic commitment, after entry to Australia as the holder of a Subclass 131 visa, to continue to maintain a business or investment activity in Australia after the designated investment made by the applicant, or the applicant and members of his or her family unit, has matured.

131.216 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to entry to Australia as the holder of a Subclass 131 visa.

### **131.22 Criteria to be satisfied at time of decision**

131.221 The applicant continues to satisfy the criteria in clauses 131.211 to 131.215.

131.222 (1) The applicant provides evidence that he or she has made a designated investment of an amount of AUD750,000, AUD1,000,000, AUD1,500,000 or AUD2,000,000.

(2) The Minister is satisfied, based on the evidence provided by the applicant, that the funds invested were:

- (a) legally owned by:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together; and
- (b) unencumbered; and
- (c) accumulated from the qualifying business or eligible investment activities of:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together.

131.223 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.

- (2) For the purposes of subclause (1):
    - (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
      - (i) Division 1.3 of Schedule 7; and
      - (ii) Parts 2 and 3 of that Schedule; and
    - (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:
      - (i) in the case of an attribute specified in Part 1 or Part 3 of Schedule 7—at the time when the application is decided; and
      - (ii) in the case of an attribute specified in Part 2 of Schedule 7—at the time when the application is made;
- and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified.

131.224 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

131.225 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5003, 5005 and 5007 to 5010.

131.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 131 visa:

- (a) is a person who satisfies public interest criteria 4001 to 4006, 4009 and 4010; and
- (b) if the person has previously been in Australia, satisfies special return criteria 5001, 5003, 5005 and 5007 to 5010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 131 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004; and
- (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria.

131.227 If either:

- (a) the family unit of the applicant includes a dependent child who made a combined application with the applicant; or
- (b) a child who:
  - (i) is usually resident with the applicant; and
  - (ii) has not turned 18;
 made a combined application with the applicant;

the Minister is satisfied that the grant of the Subclass 131 visa to the child as a member of the family unit of the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

### **131.3 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.]

#### **131.31 Criteria to be satisfied at time of application**

131.311 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 131.21.

#### **131.32 Criteria to be satisfied at time of decision**

131.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is a holder of a Subclass 131 visa.

131.322 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

131.323 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001, 5003, 5005 and 5007 to 5010.

131.324 If the applicant is a dependent child of a person who is a holder of a Subclass 131 visa, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the applicant.

#### **131.4 CIRCUMSTANCES APPLICABLE TO GRANT**

131.411 The applicant must be outside Australia when the visa is granted.

[NOTE: Any applicable charge under the *Immigration (Education) Charge Act 1992* must be paid before the visa can be granted.]

#### **131.5 WHEN VISA IS IN EFFECT**

131.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 4 years from the date of grant.

#### **131.6 CONDITIONS**

131.611 First entry must be made before a date specified by the Minister for the purpose.

131.612 Either or both of conditions 8502 and 8515 may be imposed.

#### **131.7 WAY OF GIVING EVIDENCE**

131.711 Visa label affixed to a valid passport.

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**SUBCLASS 676—TOURIST (SHORT STAY)****676.1 INTERPRETATION**

[NOTE: No interpretation provisions specific to this Part.]

**676.2 PRIMARY CRITERIA**

[NOTE: All applicants must satisfy the primary criteria.]

**676.21 Criteria to be satisfied at time of application**

676.211 The applicant:

- (a) seeks to visit Australia, or remain in Australia as a visitor:
  - (i) for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, child, brother or sister of the applicant; or
  - (ii) for a purpose other than a purpose related to business or medical treatment; and
- (b) either:
  - (i) has adequate funds, or access to adequate funds, for personal support during the period of the visit; or
  - (ii) meets the requirements of subclause 676.221 (4).

676.212 If the application is made outside Australia, the period of stay in Australia proposed in the application does not exceed 3 months.

676.213 If the application is made in Australia:

- (a) the applicant:
  - (i) is the holder of a substantive temporary visa other than a Subclass 426 (Diplomatic or Consular) visa; or
  - (ii) does not hold a substantive visa and:
    - (A) immediately before ceasing to hold a substantive visa, was the holder of a substantive temporary visa other than a visa of Subclass 426; and
    - (B) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
- (b) the applicant has complied substantially with the conditions to which the visa held, or last held, by the applicant is, or was, subject; and



- (c) the grant of the visa would not result in the applicant being authorised to remain in Australia for more than 3 consecutive months as the holder of 1 or more visitor visas.

**676.22 Criteria to be satisfied at time of decision**

676.221 (1) The applicant meets the requirements of subclause (2), (3) or (4).

- (2) An applicant meets the requirements of this subclause if:
  - (a) the applicant continues to satisfy the criterion in clause 676.211; and
  - (b) if the application is made outside Australia, the applicant continues to satisfy the criterion in clause 676.212; and
  - (c) the applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine; and
  - (d) the Minister is satisfied that the grant of the visa would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant; and
  - (e) the applicant satisfies public interest criteria 4001 to 4005, 4011 and 4012; and
  - (f) if the applicant is applying outside Australia and has previously been in Australia, the applicant satisfies special return criteria 5001, 5003, 5005 and 5007 to 5009; and
  - (g) if the application is made in Australia:
    - (i) the applicant continues to satisfy the criteria in paragraphs 676.213 (b) and (c); and
    - (ii) the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training; and
    - (iii) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted; and
    - (iv) the applicant produces evidence of adequate arrangements for health insurance to cover possible medical or hospital expenses; and
    - (v) if, at the time of application, the applicant was:
      - (A) the holder of a student visa on the grounds of having satisfied the primary criteria for that visa; and

(B) the student is under a scholarship scheme or training program that is approved by AIDAB; the applicant has the support of AIDAB for the grant of the visa.

(3) An applicant satisfies the requirements of this subclause if the applicant:

- (a) is in Australia; and
  - (b) satisfies the criteria in paragraph 676.221 (2) (c) and subparagraph 676.221 (2) (g) (iii); and
  - (c) has compelling personal reasons for the grant of the visa; and
  - (d) satisfies public interest criterion 4005.
- (4) An applicant meets the requirements of this subclause if:
- (a) he or she is in Australia; and
  - (b) he or she is suffering financial hardship as a result of changes in his or her circumstances after entering Australia; and
  - (c) he or she, or a member of his or her immediate family, is likely to become a charge on public funds in Australia; and
  - (d) for reasons beyond his or her control, he or she, or a member of his or her immediate family, cannot leave Australia; and
  - (e) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
  - (f) he or she satisfies public interest criterion 4005; and
  - (g) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and
  - (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

676.222 If, at the time of application, the applicant was the holder of a Subclass 417 (Working Holiday) visa, the applicant establishes that exceptional reasons exist for the grant of the visa.

**676.3 SECONDARY CRITERIA: Nil.**

[NOTE: All applicants must satisfy the primary criteria.]

**676.4 CIRCUMSTANCES APPLICABLE TO GRANT**

676.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

676.412 If the applicant is in Australia at the time of application, the applicant must be in Australia at the time of grant.

**676.5 WHEN VISA IS IN EFFECT**

676.511 If the visa is granted outside Australia—temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia:
  - (i) for a period (not longer than 3 months after the date of each entry) specified by the Minister for the purpose; or
  - (ii) until a date (not later than 3 months after the date of each entry) specified by the Minister for the purpose.

676.512 (1) In this clause:

“**date of latest entry**”, in relation to the holder of a visa, is the date on which he or she last entered Australia before the grant of the visa.

(2) If the visa is granted in Australia—temporary visa permitting the holder:

- (a) to remain in Australia:
  - (i) for a period (not longer than 3 months after the date of latest entry) specified by the Minister for the purpose; or
  - (ii) until a date (not later than 3 months after the date of latest entry) specified by the Minister for the purpose; and
- (b) if the holder leaves Australia during the visa period:
  - (i) to travel to, and enter, Australia on one or more occasions until a date specified by the Minister for the purpose; and

- (ii) to remain in Australia:
  - (A) for a period (not longer than 3 months after the date of each entry) specified by the Minister for the purpose; or
  - (B) until a date (not later than 3 months after the date of each entry) specified by the Minister for the purpose.

## **676.6 CONDITIONS**

676.611 In the case of a visa granted to an applicant who meets the requirements of subclause 676.221 (4): conditions 8201 and 8205.

676.612 In any other case: conditions 8101, 8201 and 8205.

676.613 Condition 8503 may be imposed.

## **676.7 WAY OF GIVING EVIDENCE**

676.711 Visa label affixed to a valid passport.

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## **SUBCLASS 686—TOURIST (LONG STAY)**

### **686.1 INTERPRETATION**

[NOTE: "Tourism" is defined in regulation 1.03. No interpretation provisions specific to this Part.]

### **686.2 PRIMARY CRITERIA**

[NOTE: All applicants must satisfy the primary criteria.]

#### **686.21 Criteria to be satisfied at time of application**

686.211 The applicant:

- (a) seeks to visit Australia, or remain in Australia, as a visitor:
  - (i) for the purpose of visiting an Australian citizen, or Australian permanent resident, who is a parent, spouse, child, brother or sister of the applicant; or

- (ii) for another purpose other than a purpose related to business or medical treatment; and
- (b) either:
  - (i) has adequate funds, or access to adequate funds, for personal support during the period of the visit; or
  - (ii) meets the requirements of subclause 686.221 (4).

686.212 If the application is made outside Australia, the period of stay in Australia proposed in the application exceeds 3 months.

686.213 If the application is made in Australia:

- (a) the applicant:
  - (i) is the holder of a substantive temporary visa other than a Subclass 426 (Diplomatic or Consular) visa; or
  - (ii) does not hold a substantive visa and:
    - (A) immediately before ceasing to hold a substantive visa, was the holder of a substantive temporary visa other than a Subclass 426 visa; and
    - (B) satisfies Schedule 3 criteria 3001, 3003, 3004 and 3005; and
- (b) the applicant has complied substantially with the conditions to which the visa (if any) held, or last held, by the applicant is, or was, subject.

#### **686.22 Criteria to be satisfied at time of decision**

686.221 (1) The applicant meets the requirements of subclause (2), (3) or (4).

- (2) An applicant meets the requirements of this subclause if:
  - (a) the applicant continues to satisfy the criterion in clause 686.211; and
  - (b) if the application is made outside Australia, the applicant continues to satisfy the criterion in clause 686.212; and
  - (c) the applicant satisfies the Minister that the expressed intention of the applicant only to visit Australia is genuine; and
  - (d) the Minister is satisfied that the grant of the visa would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant; and
  - (e) the applicant satisfies public interest criteria 4001 to 4005, 4011 and 4012; and

- (f) if the applicant is applying outside Australia and has previously been in Australia, the applicant satisfies special return criteria 5001, 5003, 5005 and 5007 to 5009; and
  - (g) if the application is made in Australia:
    - (i) the applicant continues to satisfy the criterion in paragraph 686.213 (b); and
    - (ii) the Minister is satisfied that the further period of stay in Australia is not sought for the purpose of commencing, continuing or completing any studies or training; and
    - (iii) the Minister is satisfied that the applicant intends to comply with any conditions to which the visa is granted; and
    - (iv) the applicant produces evidence of adequate arrangements for health insurance to cover possible medical or hospital expenses; and
  - (v) if the grant of the visa would result in the applicant being authorised to stay in Australia for more than 12 consecutive months as the holder of 1 or more visitor visas or a Subclass 417 (Working Holiday) visa, the applicant must satisfy the Minister that exceptional circumstances exist for the grant of the visa; and
  - (vi) if, at the time of application, the applicant was:
    - (A) the holder of a student visa on the grounds of having satisfied the primary criteria for that visa; and
    - (B) a student under a scholarship scheme or training program approved by AIDAB;
 the applicant has the support of AIDAB for the grant of the visa.
- (3) An applicant meets the requirements of this subclause if the applicant:
- (a) is in Australia; and
  - (b) satisfies the criteria in paragraph 686.221 (2) (c) and subparagraph 686.221 (2) (g) (iii); and
  - (c) has compelling personal reasons for the grant of the visa; and
  - (d) satisfies public interest criterion 4005.

- (4) An applicant meets the requirements of this subclause if:
  - (a) he or she is in Australia; and
  - (b) he or she is suffering financial hardship as a result of changes in his or her circumstances after entering Australia; and
  - (c) he or she, or a member of his or her immediate family, is likely to become a charge on public funds in Australia; and
  - (d) for reasons beyond his or her control, he or she, or a member of his or her immediate family, cannot leave Australia; and
  - (e) the Minister is satisfied that the applicant has compelling personal reasons to work in Australia; and
  - (f) he or she meets public interest criterion 4005; and
  - (g) the applicant satisfies the Minister that the applicant's expressed intention only to visit Australia is genuine; and
  - (h) the Minister is satisfied that the applicant intends to comply with any conditions subject to which the visa is granted.

**686.3 SECONDARY CRITERIA: Nil.**

[NOTE: All applicants must satisfy the primary criteria.]

**686.4 CIRCUMSTANCES APPLICABLE TO GRANT**

686.411 If the applicant is outside Australia at the time of application, the applicant must be outside Australia at the time of grant.

686.412 If the applicant is in Australia at time of application, the applicant must be in Australia at the time of grant.

**686.5 WHEN VISA IS IN EFFECT**

686.511 (1) If the visa is granted outside Australia—temporary visa permitting the holder:

- (a) to travel to, and enter, Australia on 1 or more occasions until a date specified by the Minister for the purpose; and
- (b) to remain in Australia:
  - (i) for a period specified by the Minister for the purpose; or
  - (ii) until a date specified by the Minister for the purpose.

- (2) If the visa is granted in Australia—temporary visa permitting the holder:
- (a) to remain in Australia for a period, or until a date specified by the Minister for the purpose; and
  - (b) if the holder leaves Australia during the visa period:
    - (i) to travel to and enter Australia on one or more occasions until a date specified by the Minister for the purpose; and
    - (ii) to remain in Australia after each entry:
      - (A) for a period specified by the Minister for the purpose; or
      - (B) until a date specified by the Minister for the purpose.

### **686.6 CONDITIONS**

686.611 In the case of a visa granted to an applicant who meets the requirements of in subclause 686.221 (4): conditions 8201 and 8205.

686.612 In any other case: conditions 8101, 8201 and 8205.

686.613 Condition 8503 may be imposed.

### **686.7 WAY OF GIVING EVIDENCE**

686.711 Visa label affixed to a valid passport.

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**SUBCLASS 840—BUSINESS OWNER****840.1 INTERPRETATION**

[NOTE: “appropriate regional authority”, “AUD”, “fiscal year”, “ownership interest” and “qualifying business” are defined in regulation 1.03; “main business” is defined in regulation 1.11; and “eligible business” is defined in s. 134 (10) of the Act. There are no interpretation provisions specific to this Part.]

**840.2 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.]

**840.21 Criteria to be satisfied at time of application**

840.211 (1) The applicant:

- (a) is in Australia; and
- (b) holds any of the following visas:
  - (i) a Business (Temporary) (Class TB) visa;
  - (ii) a Cultural/Social (Temporary) (Class TE) visa;
  - (iii) an Educational (Temporary) (Class TH) visa;
  - (iv) an Expatriate (Temporary) (Class TJ) visa;
  - (v) a Retirement (Temporary) (Class TQ) visa;
  - (vi) a Supported Dependent (Temporary) (Class TW) visa;
  - (vii) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a Group 2.1 (temporary resident) visa or entry permit within the meaning of the Migration (1993) Regulations before 1 September 1994;
  - (viii) a Working Holiday (Temporary) (Class TZ) visa.

840.212 The applicant has had an ownership interest in 1 or more qualifying businesses throughout any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application.

840.213 (1) The applicant has overall had a successful business career.

(2) In any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application:

- (a) the net assets of:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together;
 in a qualifying business or qualifying businesses were not less than the equivalent of AUD300,000 in each of those years; and
- (b) if a qualifying business referred to in paragraph (a) was operated as a publicly listed company, the shareholding of:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together;
 was at least 10% of the total issued capital of the company.

840.214 In any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application, the applicant, as the owner of an interest in a main business or main businesses, maintained direct and continuous involvement in management of that business or those businesses from day to day and in making decisions that affected the overall direction and performance of that business or those businesses.

840.215 If the applicant was engaged, in any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application, in a business providing professional, technical or trade services, the applicant was directly engaged in the provision of the services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.

840.216 The applicant has notified the appropriate regional authority of a State or Territory of:

- (a) the applicant's business history; and
- (b) the applicant's intention to develop a business in that State or Territory.

840.217 The applicant genuinely has a realistic commitment:

- (a) to either:
  - (i) establish an eligible business in Australia; or
  - (ii) participate in an existing eligible business in Australia; and
- (b) to maintain a substantial ownership interest in that business; and

- (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

840.218 The applicant does not have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

840.219 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 840 visa.

**840.22 Criteria to be satisfied at time of decision**

840.221 The applicant continues to satisfy the criteria in clauses 840.211 to 840.218.

840.222 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.

- (2) For the purposes of subclause (1):
  - (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
    - (i) Division 1.1 of Schedule 7; and
    - (ii) Parts 2, 3 and 4 of that Schedule; and
  - (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:
    - (i) in the case of an attribute specified in Part 3 of Schedule 7—at the time when the application is decided; and
    - (ii) in the case of any other attribute—at the time when the application is made;and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and
  - (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
    - (i) assets in Australia; or

- (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
- are to be taken into account.

840.223 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

840.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 840 visa is a person who satisfies public interest criteria 4001 to 4006, 4009 and 4010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 840 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004; and
- (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria.

840.225 If either:

- (a) the family unit of the applicant includes a dependent child who made a combined application with the applicant; or
- (b) a child who:
  - (i) is usually resident with the applicant; and
  - (ii) has not turned 18;
 made a combined application with the applicant;

the Minister is satisfied that the grant of the Subclass 840 visa to the child as a member of the family unit of the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

### **840.3 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.]

#### **840.31 Criteria to be satisfied at time of application**

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

- (a) has applied for a Business Skills (Residence) (Class BH) visa; and

(b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 840.21;  
and the Minister has not decided to grant or refuse to grant the visa to that other person.

**840.32 Criteria to be satisfied at time of decision**

840.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is a holder of a Subclass 840 visa.

840.322 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

840.323 If the applicant is the dependent child of a person who is a holder of a Subclass 840 visa, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the applicant.

**840.4 CIRCUMSTANCES APPLICABLE TO GRANT**

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

**840.5 WHEN VISA IS IN EFFECT**

840.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 4 years from the date of grant.

**840.6 CONDITIONS**

840.611 Nil.

**840.7 WAY OF GIVING EVIDENCE**

840.711 Visa label affixed to a valid passport.



**SUBCLASS 841—SENIOR EXECUTIVE****841.1 INTERPRETATION**

841.111 In this Part:

**“major business”** means a business (other than a government business enterprise) the annual turnover of which was not less than the equivalent of AUD50,000,000 in each of any 2 of the 4 fiscal years immediately preceding the making of the application.

[NOTE: “appropriate regional authority”, “AUD”, “eligible business”, “fiscal year” and “ownership interest” are defined in regulation 1.03.]

**841.2 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.]

**841.21 Criteria to be satisfied at time of application**

841.211 (1) The applicant:

- (a) is in Australia; and
- (b) holds any of the following visas:
  - (i) a Business (Temporary) (Class TB) visa;
  - (ii) a Cultural/Social (Temporary) (Class TE) visa;
  - (iii) an Educational (Temporary) (Class TH) visa;
  - (iv) an Expatriate (Temporary) (Class TJ) visa;
  - (v) a Retirement (Temporary) (Class TQ) visa;
  - (vi) a Supported Dependent (Temporary) (Class TW) visa;
  - (vii) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a Group 2.1 (temporary resident) visa or entry permit within the meaning of the Migration (1993) Regulations before 1 September 1994;
  - (viii) a Working Holiday (Temporary) (Class TZ) visa.

841.212 The applicant has overall had a successful business career.

841.213 In any 2 of the 4 years immediately preceding the making of the application, the applicant:

- (a) occupied a position in the 3 highest levels of the management structure of a major business; and
- (b) was responsible for strategic policy development affecting a major component or a wide range of operations of that major business.

841.214 The applicant has notified the appropriate regional authority of a State or Territory of:

- (a) the applicant's business history; and
- (b) the applicant's intention to develop a business in that State or Territory.

841.215 The applicant genuinely has a realistic commitment:

- (a) to either:
  - (i) establish an eligible business in Australia; or
  - (ii) participate in an existing eligible business in Australia; and
- (b) to maintain a substantial ownership interest in that business; and
- (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

841.216 The applicant does not have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

841.217 The applicant has signed a declaration in a form approved by the Minister, that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 841 visa.

#### **841.22 Criteria to be satisfied at time of decision**

841.221 The applicant continues to satisfy the criteria specified in clauses 841.211 to 841.216.

841.222 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.

- (2) For the purposes of subclause (1):
- (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
    - (i) Division 1.2 of Schedule 7; and
    - (ii) Parts 2, 3 and 4 of that Schedule; and
  - (b) an applicant's score under a Division or Part of Schedule 7 is the number of points specified in that Division or Part in relation to the attribute described in the Division or Part that relates to the applicant:
    - (i) in the case of an attribute specified in Part 3 of Schedule 7—at the time when the application is decided; and
    - (ii) in the case of any other attribute—at the time when the application is made;
 and if there is more than 1 attribute of that kind, the highest single number of points so specified; and
  - (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
    - (i) assets in Australia; or
    - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
 are to be taken into account.

841.223 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

841.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 841 visa is a person who satisfies public interest criteria 4001 to 4006, 4009 and 4010.

- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 841 visa is a person who:
- (a) satisfies public interest criteria 4001 to 4004; and
  - (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria.

- 841.225 If either:
- (a) the family unit of the applicant includes a dependent child who made a combined application with the applicant; or
  - (b) a child who:
    - (i) is usually resident with the applicant; and
    - (ii) has not turned 18;



made a combined application with the applicant; and the Minister is satisfied that the grant of a Subclass 841 visa to the child as a member of the family unit of the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

### **841.3 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.]

#### **841.31 Criteria to be satisfied at time of application**

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

- (a) has applied for a Business Skills (Residence) (Class BH) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 841.21;

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

#### **841.32 Criteria to be satisfied at time of decision**

841.321 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 841 visa.

841.322 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

841.323 If the applicant is the dependent child of a person who is a holder of a Subclass 841 visa, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the applicant .

### **841.4 CIRCUMSTANCES APPLICABLE TO GRANT**

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

**841.5 WHEN VISA IS IN EFFECT**

841.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 4 years from the date of grant.

**841.6 CONDITIONS**

841.611 Nil.

**841.7 WAY OF GIVING EVIDENCE**

841.711 Visa label affixed to a valid passport.

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**SUBCLASS 842—STATE/TERRITORY SPONSORED BUSINESS OWNER****842.1 INTERPRETATION**

[NOTE: “appropriate regional authority”, “AUD”, “fiscal year”, “ownership interest” and “qualifying business” are defined in regulation 1.03; “main business” is defined in regulation 1.11; and “eligible business” is defined in s. 134 (10) of the Act. There are no interpretation provisions specific to this Part.]

**842.2 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.]

**842.21 Criteria to be satisfied at time of application**

842.211 (1) The applicant:

- (a) is in Australia; and
- (b) holds any of the following visas:
  - (i) a Business (Temporary) (Class TB) visa;
  - (ii) a Cultural/Social (Temporary) (Class TE) visa;
  - (iii) an Educational (Temporary) (Class TH) visa;
  - (iv) an Expatriate (Temporary) (Class TJ) visa;
  - (v) a Retirement (Temporary) (Class TQ) visa;
  - (vi) a Supported Dependent (Temporary) (Class TW) visa;
  - (vii) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a Group 2.1 (temporary resident) visa or entry permit within the meaning of the Migration (1993) Regulations before 1 September 1994;
  - (viii) a Working Holiday (Temporary) (Class TZ) visa.

842.212 The applicant has had an ownership interest in 1 or more qualifying businesses throughout any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application.

842.213 (1) The applicant has overall had a successful business career.

(2) In any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application:

- (a) the net assets of:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together;in a qualifying business or qualifying businesses were not less than the equivalent of AUD200,000 in each of those years; and
- (b) if a qualifying business referred to in paragraph (a) was operated as a publicly listed company, the shareholding of:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together;was at least 10% of the total issued capital of the company.

842.214 In any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application, the applicant, as the owner of an interest in a main business or main businesses, maintained direct and continuous involvement in management of that business or those businesses from day to day and in making decisions that affected the overall direction and performance of that business or those businesses.

842.215 If the applicant was engaged, in any 2 periods of 1 fiscal year in the 4 fiscal years immediately preceding the making of the application, in a business providing professional, technical or trade services, the applicant was directly engaged in the provision of the services, as distinct from the general direction of the operation of the business, for no more than half the time spent by the applicant from day to day in the conduct of the business.

842.216 (1) The applicant has notified the appropriate regional authority of a State or Territory of:

- (a) the applicant's business history; and
- (b) the applicant's intention to develop a business in that State or Territory.

(2) The applicant submits a notification on approved form 950 from that appropriate regional authority that the authority will consider sponsoring the applicant.

- (3) The notification must:
  - (a) be signed by an officer of the appropriate regional authority who is authorised to sign a notification of that kind; and
  - (b) bear the seal of the authority.

842.217 The applicant genuinely has a realistic commitment:

- (a) to either:
  - (i) establish an eligible business in Australia; or
  - (ii) participate in an existing eligible business in Australia; and
- (b) to maintain a substantial ownership interest in that business; and
- (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

842.218 The applicant does not have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

842.219 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 842 visa.

#### **842.22 Criteria to be satisfied at time of decision**

842.221 The applicant continues to satisfy the criteria specified in clauses 842.211 to 842.218.

842.222 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this clause by Gazette Notice.

- (2) For the purposes of subclause (1):
  - (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
    - (i) Division 1.1 of Schedule 7; and
    - (ii) Parts 2, 3, 4 and 5 of that Schedule; and
  - (b) an applicant's score under a Division or Part of Schedule 7 is the number of points specified in that Division or Part

in relation to the attribute described in the Division or Part that relates to the applicant:

- (i) in the case of an attribute specified in Part 3 or Part 5 of Schedule 7—at the time when the application is decided; and
  - (ii) in the case of any other attribute—at the time when the application is made;
- and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and
- (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
    - (i) assets in Australia; or
    - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
 are to be taken into account.

842.223 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

842.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 842 visa is a person who satisfies public interest criteria 4001 to 4006, 4009 and 4010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 842 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004; and
- (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria.

842.225 If either:

- (a) the family unit of the applicant includes a dependent child who made a combined application with the applicant; or
- (b) a child who:
  - (i) is usually resident with the applicant; and
  - (ii) has not turned 18;
 made a combined application with the applicant;

the Minister is satisfied that the grant of the Subclass 842 visa to the child as a member of the family unit of the applicant would not

prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

842.226 (1) The applicant has been sponsored (on approved form 949) by an appropriate regional authority.

- (2) The sponsorship must:
  - (a) be given by the same authority as the notification referred to in subclause 842.216 (2); and
  - (b) be signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
  - (c) bear the seal of the authority; and
  - (d) be given to the Minister within 90 days after the Minister asks for it; and
  - (e) be the first sponsorship of that kind given by the applicant to the Minister.

### **842.3 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.]

#### **842.31 Criteria to be satisfied at time of application**

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

- (a) has applied for a Business Skills (Residence) (Class BH) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 842.21;

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

#### **842.32 Criteria to be satisfied at time of decision**

842.321 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 842 visa.

842.322 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

842.323 If the applicant is the dependent child of a person who is a holder of a Subclass 842 visa, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and

interests of any other person who has custody or guardianship of, or access to, the applicant.

842.324 The sponsorship referred to in 842.226 is approved by the Minister and is still in force.

#### **842.4 CIRCUMSTANCES APPLICABLE TO GRANT**

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

#### **842.5 WHEN VISA IS IN EFFECT**

842.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 4 years from the date of grant.

#### **842.6 CONDITIONS**

842.611 Nil.

#### **842.7 WAY OF GIVING EVIDENCE**

842.711 Visa label affixed to a valid passport.

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**SUBCLASS 843—STATE/TERRITORY SPONSORED SENIOR EXECUTIVE**

**843.1 INTERPRETATION**

843.111 In this Part:

“**major business**” means a business (other than a government business enterprise) the annual turnover of which was not less than the equivalent of AUD10,000,000 in each of any 2 of the 4 fiscal years immediately preceding the making of the application.

[NOTE: “appropriate regional authority”, “AUD”, “eligible business”, “fiscal year” and “ownership interest” are defined in regulation 1.03.]

**843.2 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.]

**843.21 Criteria to be satisfied at time of application**

843.211 (1) The applicant:

- (a) is in Australia; and
- (b) holds any of the following visas:
  - (i) a Business (Temporary) (Class TB) visa;
  - (ii) a Cultural/Social (Temporary) (Class TE) visa;
  - (iii) an Educational (Temporary) (Class TH) visa;
  - (iv) an Expatriate (Temporary) (Class TJ) visa;
  - (v) a Retirement (Temporary) (Class TQ) visa;
  - (vi) a Supported Dependent (Temporary) (Class TW) visa;
  - (vii) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a Group 2.1 (temporary resident) visa or entry permit within the meaning of the Migration (1993) Regulations before 1 September 1994;
  - (viii) a Working Holiday (Temporary) (Class TZ) visa.

843.212 The applicant has overall had a successful business career.

843.213 In any 2 of the 4 years immediately preceding the making of the application, the applicant:

- (a) occupied a position in the 3 highest levels of the management structure of a major business; and
- (b) was responsible for strategic policy development affecting a major component or a wide range of operations of that major business.

843.214 (1) The applicant has notified an appropriate regional authority of a State or Territory of:

- (a) the applicant's business history; and
- (b) the applicant's intention to develop a business in that State or Territory.

(2) The applicant submits a notification, on approved form 950, from that appropriate regional authority stating that the authority will consider sponsoring the applicant.

- (3) The notification must:
  - (a) be signed by an officer of the authority who is authorised to sign a notification of that kind; and
  - (b) bear the seal of the authority.

843.215 The applicant genuinely has a realistic commitment:

- (a) to either:
  - (i) establish an eligible business in Australia; or
  - (ii) participate in an existing eligible business in Australia; and
- (b) to maintain a substantial ownership interest in that business; and
- (c) to maintain direct and continuous involvement in management of that business from day to day and in making decisions that affect the overall direction and performance of the business in a manner that benefits the Australian economy.

843.216 The applicant does not have a history of involvement in business activities that are of a nature that is not generally acceptable in Australia.

843.217 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 843 visa.

**843.22 Criteria to be satisfied at time of decision**

843.221 The applicant continues to satisfy the criteria specified in clauses 843.211 to 843.216.

843.222 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.

- (2) For the purposes of subclause (1):
  - (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
    - (i) Division 1.2 of Schedule 7; and
    - (ii) Parts 2, 3 and 4 of that Schedule; and
  - (b) an applicant's score under a Division or Part of Schedule 7 is the number of points specified in that Division or Part in relation to the attribute described in the Division or Part that relates to the applicant:
    - (i) in the case of an attribute specified in Part 3 of Schedule 7—at the time when the application is decided; and
    - (ii) in the case of any other attribute—at the time when the application is made;
 and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and
  - (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
    - (i) assets in Australia; or
    - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
 are to be taken into account.

843.223 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

843.224 (1) Each member of the family unit of the applicant who is also an applicant for a Subclass 843 visa is a person who satisfies public interest criteria 4001 to 4006, 4009 and 4010.

- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 843 visa is a person who:
  - (a) satisfies public interest criteria 4001 to 4004; and
  - (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to

require the person to undergo assessment in relation to those criteria.

843.225 If either:

- (a) the family unit of the applicant includes a dependent child who made a combined application with the applicant; or
- (b) a child who:
  - (i) is usually resident with the applicant; and
  - (ii) has not turned 18;
 made a combined application with the applicant;

the Minister is satisfied that the grant of the Subclass 843 visa to the child as a member of the family unit of the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

843.226 (1) The applicant has been sponsored (on approved form 949) by an appropriate regional authority.

- (2) The sponsorship must:
  - (a) be given by the same authority as the notification referred to in subclause 843.214 (2); and
  - (b) be signed by an officer of the authority who is authorised to sign a sponsorship of that kind; and
  - (c) bear the seal of the authority; and
  - (d) be given to the Minister within 90 days after the Minister asks for it; and
  - (e) be the first sponsorship of that kind given by the applicant to the Minister.

### **843.3 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.]

#### **843.31 Criteria to be satisfied at time of application**

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

- (a) has applied for a Business Skills (Residence) (Class BH) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 843.21;

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

**843.32 Criteria to be satisfied at time of decision**

843.321 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 843 visa.

843.322 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

843.323 If the applicant is the dependent child of a person who is a holder of a Subclass 843 visa, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the applicant.

843.324 The sponsorship referred to in 843.226 is approved by the Minister and is still in force.

**843.4 CIRCUMSTANCES APPLICABLE TO GRANT**

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

**843.5 WHEN VISA IS IN EFFECT**

843.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 4 years from the date of grant.

**843.6 CONDITIONS**

843.611 Nil.

**843.7 WAY OF GIVING EVIDENCE**

843.711 Visa label affixed to a valid passport.

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**SUBCLASS 844—INVESTMENT-LINKED****844.1 INTERPRETATION**

844.111 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;

**“eligible investment”** in relation to a person means:

- (a) an ownership interest in a business; or
- (b) a loan to a business; or
- (c) cash on deposit; or
- (d) stocks and bonds; or
- (e) real estate; or
- (f) gold or silver bullion;

that is owned by the person for the purposes of producing a return by way of income or capital gain and is not held for personal use.

[NOTE: “AUD”, “fiscal year”, “ownership interest” and “qualifying business” are defined in regulation 1.03.]

**844.2 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.]

**844.21 Criteria to be satisfied at time of application**

844.211 The Minister is satisfied that the applicant has demonstrated a high level of management skill in relation to the eligible investment or qualifying business activity.

844.212 The applicant:

- (a) is in Australia; and
- (b) holds any of the following visas:
  - (i) a Business (Temporary) (Class TB) visa;
  - (ii) a Cultural/Social (Temporary) (Class TE) visa;
  - (iii) an Educational (Temporary) (Class TH) visa;
  - (iv) an Expatriate (Temporary) (Class TJ) visa;
  - (v) a Retirement (Temporary) (Class TQ) visa;
  - (vi) a Supported Dependent (Temporary) (Class TW) visa;

(vii) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a Group 2.1 (temporary resident) visa or entry permit within the meaning of the Migration (1993) Regulations before 1 September 1994;

(viii) a Working Holiday (Temporary) (Class TZ) visa.

844.213 The applicant has demonstrated overall a successful record of eligible investment or qualifying business activity.

844.214 (1) The applicant has had a total of at least 3 years experience of direct involvement in managing 1 or more qualifying businesses or eligible investments.

(2) Throughout at least 1 of the 5 fiscal years immediately preceding the making of the application:

(a) the applicant maintained direct involvement in managing a qualifying business in which:

(i) the applicant; or

(ii) the applicant and his or her spouse together;

had an ownership interest of at least 10% of the total value of the business; or

(b) the applicant maintained direct involvement in managing eligible investments of:

(i) the applicant; or

(ii) the applicant and his or her spouse together;

the total net value of which was at least AUD1,000,000.

(3) The total net value of the assets owned by:

(a) the applicant; or

(b) the applicant and his or her spouse together;

throughout the 2 fiscal years immediately preceding the making of the application was at least 50% more than the value of the funds to be deposited in the designated investment in the name of the applicant, or in the names of the applicant and members of his or her family unit, as the case requires.

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

844.216 The applicant demonstrates that he or she genuinely has a realistic commitment to continue to maintain a business or investment activity in Australia after the designated investment made

by the applicant, or the applicant and his or her family unit, has matured.

844.217 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 844 visa.

**844.22 Criteria to be satisfied at time of decision**

844.221 The applicant continues to satisfy the criteria specified in clauses 844.211 to 844.216.

844.222 (1) The applicant provides evidence that he or she has made a designated investment of an amount of AUD750,000, AUD1,000,000, AUD1,500,000 or AUD2,000,000.

(2) The Minister is satisfied, based on the evidence provided by the applicant, that the funds invested were:

- (a) legally owned by:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together; and
- (b) unencumbered; and
- (c) accumulated from the qualifying business or eligible investment activities of:
  - (i) the applicant; or
  - (ii) the applicant and his or her spouse together.

844.223 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.

- (2) For the purposes of subclause (1):
  - (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
    - (i) Division 1.3 of Schedule 7; and
    - (ii) Parts 2 and 3 of that Schedule; and
  - (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:
    - (i) in the case of an attribute specified in Part 1 or Part 3 of Schedule 7—at the time when the application is decided; and



- (ii) in the case of an attribute specified in Part 2—at the time when the application is made; and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified.

844.224 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

844.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 844 visa is a person who satisfies public interest criteria 4001 to 4006, 4009 and 4010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 844 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004; and
- (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria.

844.226 If either:

- (a) the family unit of the applicant includes a dependent child who made a combined application with the applicant; or
- (b) a child who:
  - (i) is usually resident with the applicant; and
  - (ii) has not turned 18;made a combined application with the applicant;

the Minister is satisfied that the grant of the Subclass 844 visa to the child as a member of the family unit of the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

### **844.3 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.]

#### **844.31 Criteria to be satisfied at time of application**

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

- (a) has applied for a Business Skills (Residence) (Class BH) visa; and

- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 844.21;

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

**844.32 Criteria to be satisfied at time of decision**

844.321 The applicant continues to be a member of the family unit of a person who, having satisfied the primary criteria, is a holder of a Subclass 844 visa.

844.322 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

844.323 If the applicant is the dependent child of a person who is a holder of a Subclass 844 visa, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the applicant.

**844.4 CIRCUMSTANCES APPLICABLE TO GRANT**

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

**844.5 WHEN VISA IS IN EFFECT**

844.511 Permanent visa permitting the holder to travel to and enter Australia for a period of 4 years from the date of grant.

**844.6 CONDITIONS**

844.611 Nil.

**844.7 WAY OF GIVING EVIDENCE**

844.711 Visa label affixed to a valid passport.

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**SUBCLASS 845—ESTABLISHED BUSINESS IN AUSTRALIA****845.1 INTERPRETATION**

[NOTE: “AUD”, “ownership interest” and “qualifying business” are defined in regulation 1.03; and “main business” is defined in regulation 1.11. There are no interpretation provisions specific to this Part.]

**845.2 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.]

**845.21 Criteria to be satisfied at time of application**

845.211 The applicant holds a temporary substantive visa other than any of the following visas:

- (a) a special purpose visa;
- (b) a Border (Temporary) (Class TA) visa;
- (c) a Diplomatic (Temporary) (Class TF) visa;
- (d) a Domestic Worker (Temporary) (Class TG) visa;
- (e) a Transit (Temporary) (Class TX) visa;
- (f) a transitional (temporary) visa that the applicant is taken to hold because he or she held, or applied for, a visa referred to in paragraph (a), (b), (c), (d) or (e) before 1 September 1994.

845.212 The applicant has been in Australia as the holder of the temporary substantive visa for at least 9 months during the period of 12 months immediately preceding the making of the application.

845.213 The applicant:

- (a) has had an ownership interest in 1 or more established main businesses in Australia for the period of 18 months immediately preceding the making of the application; and
- (b) continues to have an interest of that kind.

845.214 The total value of the net assets of the applicant and the applicant’s spouse in Australia is at least AUD250,000.

845.215 The total value of the net assets of the main business or main businesses owned by the applicant, or the applicant and the applicant’s spouse together, has been for the 12 months immediately

preceding the date of the application, and is currently, at least AUD100,000.

845.216 In the 12 months immediately preceding the making of the application, the applicant, as the owner of an interest in a main business or main businesses in Australia, maintained direct and continuous involvement in the management of that business or those businesses from day to day and in making decisions that affected the overall direction and performance of that business or those businesses.

845.217 The applicant has overall had a successful business career.

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

845.219 The applicant has signed a declaration in a form approved by the Minister that the applicant acknowledges the Government's requirements in relation to residence in Australia as the holder of a Subclass 845 visa.

#### **845.22 Criteria to be satisfied at time of decision**

845.221 The applicant continues to satisfy clauses 845.213 to 845.218.

845.222 (1) The applicant's score on the business skills points test is not less than the number of points that is specified for the purposes of this subclause by Gazette Notice.

- (2) For the purposes of sub-clause (1):
  - (a) an applicant's score on the business skills points test is the sum of the applicant's scores under:
    - (i) Division 1.4 of Schedule 7; and
    - (ii) Parts 2, 3 and 4 of that Schedule; and
  - (b) an applicant's score under a Subdivision or Part of Schedule 7 is the number of points specified in that Subdivision or Part in relation to the attribute described in the Subdivision or Part that relates to the applicant:
    - (i) in the case of an attribute specified in Division 1.3 of Schedule 7—at the time when the application is decided; and
    - (ii) in the case of any other attribute—at the time when the application is made;

and if there is more than 1 attribute of either of those kinds, the highest single number of points so specified; and

- (c) in determining the score of an applicant under Part 4 of Schedule 7, only:
- (i) assets in Australia; or
  - (ii) assets available for transfer, and capable of being transferred, to Australia within 2 years of grant of a business skills visa to the applicant;
- are to be taken into account.

845.223 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

845.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 845 visa is a person who satisfies public interest criteria 4001 to 4006, 4009 and 4010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 845 visa is a person who:

- (a) satisfies public interest criteria 4001 to 4004; and
- (b) satisfies public interest criteria 4005 and 4006, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to those criteria.

845.225 If either:

- (a) the family unit of the applicant includes a dependent child who made a combined application with the applicant; or
- (b) a child who:
  - (i) is usually resident with the applicant; and
  - (ii) has not turned 18;
 made a combined application with the applicant;

the Minister is satisfied that the grant of the Subclass 845 visa to the child as a member of the family unit of the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the child.

### **845.3 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.]

**845.31 Criteria to be satisfied at time of application**

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

- (a) has applied for a Business Skills (Residence) (Class BH) visa; and
- (b) on the basis of the information provided in his or her application, appears to satisfy the criteria in subdivision 845.21;

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

**845.32 Criteria to be satisfied at time of decision**

845.321 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 845 visa.

845.322 The applicant satisfies public interest criteria 4001 to 4006, 4009 and 4010.

845.323 If the applicant is the dependent child of a person who is a holder of a Subclass 845 visa, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any other person who has custody or guardianship of, or access to, the applicant.

**845.4 CIRCUMSTANCES APPLICABLE TO GRANT**

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

**845.5 WHEN VISA IS IN EFFECT**

845.511 Permanent visa permitting the holder to travel to, and enter, Australia for a period of 4 years from the date of grant.

**845.6 CONDITIONS:**

845.611 Nil.

**845.7 WAY OF GIVING EVIDENCE**

845.711 Visa label affixed to a passport.

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on *L* 1995.
2. Statutory Rules 1994 No. 268 as amended by 1994 Nos. 280, 322 and 376/  
1995 No. 3.

*14 March /  
1/ and 452*