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## Migration Amendment Regulations 1999 (No. 13)

Statutory Rules 1999 No. 13

259

I, WILLIAM PATRICK DEANE, 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 20 OCT 1999 1999.

**WILLIAM DEANE**  
Governor-General

By His Excellency's Command,

PHILIP RUDDOCK  
Minister for Immigration and Multicultural Affairs



# Migration Amendment Regulations 1999 (No. 1)<sup>1</sup>

13

Statutory Rules 1999 No. 1<sup>2</sup>

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made under the

*Migration Act 1958*

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1999, 1

*Migration Amendment Regulations 1999 (No. 1)*

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**1 Name of Regulations**

These Regulations are the *Migration Amendment Regulations 1999 (No. 1)*.

13

**2 Commencement**

These Regulations commence as follows:

- (a) on 31 October 1999 — regulations 1 to 3 and Schedule 1;
- (b) on 1 November 1999 — regulations 4 and 5 and Schedule 2.

**3 Amendment of *Migration Amendment Regulations 1999 (No. 11)***

Schedule 1 amends the *Migration Amendment Regulations 1999 (No. 11)*.

**4 Amendment of *Migration Regulations 1994***

Schedule 2 amends the *Migration Regulations 1994*.

**5 Transitional**

- (1) The amendments made by the following items of Schedule 2 to these Regulations apply only to an application for a visa made on or after 1 November 1999:
  - (a) [2101] to [2106];
  - (b) [2108];
  - (c) [2110] to [2119];
  - (d) [2123];
  - (e) [2125] to [2128];
  - (f) [2201];
  - (g) [2203] to [2220];
  - (h) [2222] to [2230];

- (i) [2301] to [2311];
  - (j) [2314] to [2330];
  - (k) [2331] to [2345];
  - (l) [2347] to [2353].
- (2) The amendments made by items [2109], [2312], [2313] and [2501] of Schedule 2 to these Regulations apply in relation to an application for a visa:
- (a) made, but not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*), before 1 November 1999; or
  - (b) made on or after 1 November 1999.
- (3) The amendments made by items [2120] and [2121] of Schedule 2 to these Regulations apply only to a request for the waiver of a condition made on or after 1 November 1999.
- (4) The amendment made by item [2124] of Schedule 2 to these Regulations applies to an application for a visa:
- (a) made, but not decided, before 1 November 1999; or
  - (b) made on or after 1 November 1999.
- (5) If an application for a visa of one of the following classes was made before 1 November 1999, but was not finally determined (within the meaning of subsection 5 (9) of the *Migration Act 1958*) before that date, the *Migration Regulations 1994*, as in force immediately before 1 November 1999, continue to apply in relation to the application:
- (a) Adoption (Migrant) (Class AA);
  - (b) Change in Circumstances (Residence) (Class AG);
  - (c) Family (Residence) (Class AO);
  - (d) Preferential Relative (Migrant) (Class AY);
  - (e) Spouse (Migrant) (Class BC);
  - (f) Interdependency (Migrant) (Class BI);
  - (g) Extended Eligibility (Temporary) (Class TK);
  - (h) Spouse (Provisional) (Class UF);
  - (i) Interdependency (Provisional) (Class UG).

(6) If:

- (a) a person is taken to have applied for a visa of a particular class as an additional applicant under paragraph 2.08A (1) (e); and
- (b) the original applicant in relation to the additional applicant applied for a visa of the kind mentioned in paragraph 2.08A (1) (a) before 1 November 1999;

the *Migration Regulations 1994*, as in force immediately before 1 November 1999, apply in relation to the application taken to have been made by the additional applicant.

(7) If:

- (a) a dependent child is taken to have applied for a visa of a particular class under paragraph 2.08B (1) (e); and
- (b) the original applicant in relation to the additional applicant applied for any of the following visas before 1 November 1999:
  - (i) an Extended Eligibility (Temporary) (Class TK) visa;
  - (ii) an Interdependency (Provisional) (Class UG) visa;
  - (iii) a Prospective Marriage (Temporary) (Class TO) visa;
  - (iv) a Spouse (Provisional) (Class UF) visa;

the *Migration Regulations 1994*, as in force immediately before 1 November 1999, apply in relation to the application taken to have been made by the dependent child.

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**Schedule 1      Amendments of *Migration  
Amendment Regulations  
1999 (No. 11)***

(regulation 3)

**[101] Schedule 1, item [1203], new subregulation 1113 (2)**

*substitute*

- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made): \$1,595.
  - (b) Second instalment (payable before grant of visa): Nil.

**[102] Schedule 1, item [1206], new subregulation 1114A (2)**

*substitute*

- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made): \$1,595.
  - (b) Second instalment (payable before grant of visa): Nil.

**[103] Schedule 1, item [1209], new subregulation 1121A (2)**

*substitute*

- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made): \$1,595.
  - (b) Second instalment (payable before grant of visa): Nil.

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## Schedule 2      **Amendments of Migration Regulations 1994**

(regulation 4)

### Part 1              **Amendments of Parts 1, 2 and 4**

#### [2101] Regulation 1.03, definition of *close relative*, paragraph (c)

*omit*

adopted step-child,

#### [2102] Regulation 1.03, definition of *dependent*

*substitute*

*dependent* has the meaning given by regulation 1.05A.

#### [2103] Regulation 1.03, definition of *dependent child*

*substitute*

*dependent child* means the natural or adopted child, or step-child, of a person (other than a child who has a spouse or is engaged to be married), being a child who:

- (a) has not turned 18; or
- (b) has turned 18 and:
  - (i) is dependent on that person; or
  - (ii) is incapacitated for work due to the total or partial loss of the child's bodily or mental functions.



**[2104] Regulation 1.03, definition of *long-term spouse relationship*, paragraph (a)**

*after*

dependent child

*insert*

(other than a step-child)

**[2105] Regulation 1.03, after definition of *spouse***

*insert*

***step-child***, in relation to a parent, means:

- (a) a child of the parent who is not the natural or adopted child of the parent but who is the natural or adopted child of the parent's current spouse; or
- (b) a child of the parent who is not the natural or adopted child of the parent but:
  - (i) who is the natural or adopted child of a former spouse of the parent; and
  - (ii) who has not turned 18; and
  - (iii) in relation to whom the parent has:
    - (A) a residence order in force under the *Family Law Act 1975*; or
    - (B) a specific issues order in force under the *Family Law Act 1975* under which the parent is responsible for the child's long-term or day-to-day care, welfare and development; or
    - (C) guardianship or custody, whether jointly or otherwise, under a Commonwealth, State or Territory law or a law in force in a foreign country.

---

**[2106] After regulation 1.05**

*insert*

**1.05A Dependent**

- (1) Subject to subregulation (2), a person (the *first person*) is dependent on another person if:
  - (a) at the time when it is necessary to establish whether the first person is dependent on the other person:
    - (i) the first person is, and has been for a substantial period immediately before that time, wholly or substantially reliant on the other person for financial support to meet the first person's basic needs for food, clothing and shelter; and
    - (ii) the first person's reliance on the other person is greater than any reliance by the first person on any other person, or source of support, for financial support to meet the first person's basic needs for food, clothing and shelter; or
  - (b) the first person is wholly or substantially reliant on the other person for financial support because the first person is incapacitated for work due to the total or partial loss of the first person's bodily or mental functions.
- (2) A person (the *first person*) is dependent on another person for the purposes of an application for:
  - (a) a Burmese in Burma (Special Assistance) (Class AB) visa; or
  - (b) a Burmese in Thailand (Special Assistance) (Class AC) visa; or
  - (c) a Citizens of the Former Yugoslavia (Special Assistance) (Class AI) visa; or
  - (d) a Protection (Class AZ) visa; or
  - (e) a Refugee and Humanitarian (Migrant) (Class BA) visa; or

- (f) a Sudanese (Special Assistance) (Class BD) visa;  
or
- (g) a Sri Lankan (Special Assistance) (Class BG) visa; or
- (h) an Ahmadi (Special Assistance) (Class BJ) visa;  
or
- (i) a Temporary Safe Haven (Class UJ) visa;  
if the first person is wholly or substantially reliant on  
the other person for financial, psychological or  
physical support.

**[2107] Subparagraph 1.08 (b) (ii)**

*omit*

clause 805.213

*insert*

clause 856.213 or 857.213

**[2108] Paragraph 1.09A (2) (d)**

*omit*

an Extended Eligibility (Temporary) (Class TK), General  
(Residence) (Class AS), Interdependency (Migrant) (Class  
BI) or Interdependency (Provisional) (Class UG) visa

*insert*

a Partner (Migrant) (Class BC), Partner (Provisional) (Class  
UF), Partner (Residence) (Class BS), or Partner (Temporary)  
(Class UK) visa

---

**[2109] Regulation 1.15**

*substitute*

**1.15 Remaining relative**

- (1) An applicant for a visa is a ***remaining relative*** of another person who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen if the applicant satisfies the Minister that:
- (a) the other person is a parent, brother, sister, step-parent, step-brother or step-sister of the applicant; and
  - (b) the other person is usually resident in Australia; and
  - (c) if the applicant or the applicant's spouse (if any) has an overseas near relative:
    - (i) the applicant and the applicant's spouse (if any) usually reside in a country, not being Australia, that is different to the country in which that relative resides; and
    - (ii) neither the applicant nor the applicant's spouse (if any) have had contact with that relative within a reasonable period before making the application; and
  - (d) the applicant and the applicant's spouse (if any) together have not more than 3 overseas near relatives; and
  - (e) if the applicant is a child who:
    - (i) has not turned 18; and
    - (ii) has been adopted by an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen (***the adoptive parent***) while overseas —  
at the time of making the application, the adoptive parent has been residing overseas for a period of at least 12 months.

(2) In this regulation:

*overseas near relative*, in relation to an applicant, means a person who is:

- (a) a parent, brother, sister, step-parent, step-brother or step-sister of the applicant or of the applicant's spouse (if any); or
- (b) a child (including a step-child) of the applicant or of the applicant's spouse (if any), being a child who:
  - (i) has turned 18 and is not a dependent child of the applicant or of the applicant's spouse (if any); or
  - (ii) has not turned 18 and is not wholly or substantially in the daily care and control of the applicant or of the applicant's spouse (if any) —other than a relative of that kind who:
  - (c) is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen; and
  - (d) is usually resident in Australia.

(3) For the purposes of paragraphs (1) (c) and (d), an overseas near relative is taken to reside in his or her last known country of residence unless the applicant satisfies the Minister that the relative resides in another country.

**[2110] Paragraph 1.15A (2) (d)**

*omit*

an Extended Eligibility (Temporary) (Class TK) visa or a Spouse (Provisional) (Class UF) visa

*insert*

a Partner (Provisional) (Class UF) visa, or a Partner (Temporary) (Class UK) visa

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**[2111] Paragraphs 1.15A (3) (aa) and (ac)**

*omit*

**[2112] Paragraphs 1.15A (3) (ad) and (ae)**

*substitute*

- (ad) a Partner (Migrant) (Class BC) visa; or
- (ae) a Partner (Provisional) (Class UF) visa; or
- (af) a Partner (Residence) (Class BS) visa; or
- (ag) a Partner (Temporary) (Class UK) visa;

**[2113] Paragraphs 1.20 (2) (a) and (b)**

*omit*

Spouse

*insert*

Partner

**[2114] Paragraph 1.20 (2) (a)**

*omit*

Interdependency (Migrant) (Class BI),

**[2115] Paragraph 1.20 (2) (b)**

*omit*

an Interdependency (Provisional) (Class UG),

*insert*

a

**[2116] Paragraph 1.20 (2) (c)**

*substitute*

- (c) if the application is a concurrent application for a Partner (Migrant) (Class BC) and a Partner (Provisional) (Class UF) visa, the sponsor undertakes to assist the applicant, to the extent necessary, financially and in respect of accommodation, during the period of 2 years immediately following the applicant's entry into Australia as the holder of any of those visas;

**[2117] Subparagraph 1.20J (1) (a) (i)**

*after*

Spouse (Provisional) (Class UF) visa

*insert*

, a Partner (Provisional) (Class UF) visa

**[2118] Subparagraph 1.20J (1) (a) (ii)**

*after*

Interdependency (Provisional) (Class UG) visa

*insert*

or a Partner (Provisional) (Class UF) visa

**[2119] Paragraph 1.20J (1) (b)**

*after*

Extended Eligibility (Temporary) (Class TK) visa

*insert*

or a Partner (Temporary) (Class UK) visa

**[2120] Paragraph 2.05 (4) (a)**

*substitute*

- (a) since the person was granted the visa that was subject to the condition, compelling and compassionate circumstances have developed:
  - (i) over which the person had no control; and
  - (ii) that resulted in a major change to the person's circumstances; and

**[2121] Paragraph 2.05 (4) (b)**

*after*

satisfied that the circumstances

*insert*

mentioned in paragraph (a)

**[2122] After regulation 2.07**

*insert*

**2.07A Certain applications not valid bridging visa applications**

An application for a substantive visa made on a form mentioned in subitem 1301 (1), 1303 (1) or 1305 (1) is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa in either of the following circumstances:

- (a) the applicant was not in Australia when the application for the substantive visa was made;
- (b) the substantive visa is a visa of a kind that can only be granted if the applicant is outside Australia.



**[2123] Subparagraph 2.08B (1) (a) (v)**

*substitute*

- (v) a Spouse (Provisional) (Class UF) visa; or
- (vi) a Partner (Provisional) (Class UF) visa; or
- (vii) a Partner (Temporary) (Class UK) visa; and

**[2124] After regulation 2.08D**

*insert*

**2.08E Certain applicants taken to have applied for Partner (Migrant) (Class BC) visas and Partner (Provisional) (Class UF) visas**

- (1) For subsection 46 (2) of the Act, the Partner (Migrant) (Class BC) visa and the Partner (Provisional) (Class UF) visa are prescribed classes of visa.
- (2) If:
  - (a) a person (the *applicant*) applies for a Prospective Marriage (Temporary) (Class TO) visa; and
  - (b) after the application is made, but before it is decided, the applicant marries the person who was specified as the applicant's prospective spouse in the application for that visa; and
  - (c) the marriage is recognised as valid for the purposes of the Act;then:
  - (d) the applicant is taken instead to have applied for a Partner (Migrant) (Class BC) visa and a Partner (Provisional) (Class UF) visa on the day Immigration receives notice of the marriage; and
  - (e) the applications are taken to be validly made.

- 
- (3) The amount paid by the applicant as the first instalment of the visa application charge for the Prospective Marriage (Temporary) (Class TO) visa application is taken to be payment of the first instalment of the visa application charge for the Partner (Migrant) (Class BC) visa application.

**[2125] Paragraph 2.12 (1) (o)**

*substitute*

- (o) Resolution of Status (Residence) (Class BL);
- (p) Child (Residence) (Class BT).

**[2126] Paragraph 2.21A (1) (b)**

*after*

Spouse (Migrant) (Class BC) visa

*insert*

, a Partner (Migrant) (Class BC) visa

**[2127] Paragraph 2.26A (4) (b)**

*omit*

qualification.

*insert*

qualification; and

**[2128] After paragraph 2.26A (4) (b)**

*insert*

- (c) must not give the applicant a prescribed number of points for item 6A12 or 6A13 in Part 1 of Schedule 6A unless:
  - (i) in the case of item 6A12 — the applicant is assessed by the relevant assessing authority as holding a degree that is equivalent to a degree of an Australian tertiary educational institution; and
  - (ii) in the case of item 6A13 — the applicant is assessed by the relevant assessing authority as holding a diploma or advanced diploma that is equivalent to a diploma or advanced diploma of an Australian educational institution.

**[2129] Subregulation 4.31B (5)**

*omit*

1 July 2002.

*insert*

1 July 2001.

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## Part 2                      Amendments of Schedule 1

### [2201] Item 1101

*omit*

### [2202] Subitem 1104 (1)

*omit*

and

*insert*

or

### [2203] Subparagraphs 1107 (2) (a) (ii), (iii) and (iv)

*omit*

### [2204] Paragraph 1107 (2) (b)

*substitute*

(b) Second instalment (payable before grant of visa): Nil.

### [2205] Paragraph 1107 (3) (d)

*omit*

### [2206] Subitem 1107 (4)

*substitute*

(4) Subclasses:

833 (Certain Unlawful Non-citizens)

**[2207] Item 1108**

*substitute*

**1108. Child (Migrant) (Class AH)**

- (1) Form: 47 or 47CH.
- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made):
    - (i) In the case of an applicant whose brother or sister:
      - (A) applies for a Child (Migrant) (Class AH) visa at the same time and place as the applicant; and
      - (B) has paid the amount of charge specified in subparagraph (ii) or (iii) on his or her application: Nil
    - (ii) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be an orphan relative: \$660
    - (iii) In any other case: \$1,075
  - (b) Second instalment (payable before grant of visa):
    - (i) In the case of each applicant for whom an assurance of support is required: \$960
    - (ii) In any other case: Nil.
- (3) Other:
  - (a) Application must be made outside Australia.
  - (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for a Child (Migrant) (Class AH) visa may be made at the same time and place as, and combined with, the application by that person.

- (4) Subclasses:
- 101 (Child)
  - 102 (Adoption)
  - 117 (Orphan Relative)

**1108A. Child (Residence) (Class BT)**

- (1) Form: 47CH or 887.
- (2) Visa application charge:
- (a) First instalment (payable at the time application is made):
- (i) In the case of an applicant whose brother or sister:
    - (A) applies for a Child (Residence) (Class BT) visa at the same time and place as the applicant; and
    - (B) has paid the amount of charge specified in subparagraph (ii) or (iv) on his or her application: Nil
  - (ii) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be an orphan relative: \$660
  - (iii) In the case of an applicant:
    - (A) whose parent has been granted a permanent visa; and
    - (B) who was included in the parent's application for:
      - (I) a Group 1.1 (migrant) visa under the Migration (1993) Regulations; or
      - (II) a business (joint venture) visa (code number 122) or a business (general) visa (code number 123) under the Migration (1989) Regulations: Nil
  - (iv) In any other case: \$1,595

- (b) Second instalment (payable before grant of visa):
  - (i) In the case of each applicant for whom an assurance of support is required: \$960
  - (ii) In any other case: Nil.
- (3) Other:
  - (a) Application must be made in Australia but not in immigration clearance.
  - (b) 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 a person who is an applicant for a Child (Residence) (Class BT) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:
  - 802 (Child)
  - 837 (Orphan Relative)

**[2208] Subparagraphs 1115 (2) (a) (iii), (iv) and (v)**

*omit*

**[2209] Paragraph 1115 (2) (b)**

*substitute*

- (b) Second instalment (payable before grant of visa): Nil.

**[2210] Paragraph 1115 (3) (e)**

*omit*

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**[2211] Subitem 1115 (4)**

*substitute*

- (4) Subclasses:
- 831 (Prospective Marriage Spouse)
  - 832 (Close Ties)

**[2212] Item 1119**

*omit*

**[2213] Item 1120A**

*omit*

**[2214] After item 1123**

*insert*

**1123A. Other Family (Migrant) (Class BO)**

- (1) Form: 47 or 47OF.
- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made):
    - (i) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be a carer: \$660
    - (ii) In any other case: \$1,075
  - (b) Second instalment (payable before grant of visa):
    - (i) In the case of an applicant:
      - (A) who is a carer; and



(B) in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer: Nil

(ii) In any other case: \$960.

(3) Other:

- (a) Application must be made outside Australia.
- (b) Application by a person claiming to be a member of the family unit of a person who is an applicant for an Other Family (Migrant) (Class BO) visa may be made at the same time and place as, and combined with, the application by that person.
- (c) Application by a person claiming to be a carer must be accompanied by satisfactory evidence that the relevant medical assessment has been sought.

(4) Subclasses:

- 114 (Aged Dependent Relative)
- 115 (Remaining Relative)
- 116 (Carer)

### **1123B. Other Family (Residence) (Class BU)**

(1) Form: 47OF or 887.

(2) Visa application charge:

- (a) First instalment (payable at the time application is made):
  - (i) In the case of an applicant who appears to the Minister, on the basis of information contained in the application, to be a carer: \$660

- 
- (ii) In any other case: \$1,595.
  - (b) Second instalment (payable before grant of visa):
    - (i) In the case of an applicant:
      - (A) who is a carer; and
      - (B) in relation to whom the Minister has determined that the second instalment of the visa application charge should not be paid because the Minister is satisfied that payment of the instalment has caused, or is likely to cause, severe financial hardship to the applicant or to the person of whom the applicant is a carer: Nil
    - (ii) In any other case: \$960.
  - (3) Other:
    - (a) Application must be made in Australia but not in immigration clearance.
    - (b) 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 a person who is an applicant for an Other Family (Residence) (Class BU) visa may be made at the same time and place as, and combined with, the application by that person.
    - (d) Application by a person claiming to be a carer must be accompanied by satisfactory evidence that the relevant medical assessment has been sought.
  - (4) Subclasses:
    - 835 (Remaining Relative)
    - 836 (Carer)
    - 838 (Aged Dependent Relative)

**[2215] After item 1124**

*insert*

**1124A. Aged Parent (Residence) (Class BP)**

- (1) Form: 47PA or 887.
- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made): \$1,595
  - (b) Second instalment (payable before grant of visa): \$960.
- (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 a person who is an applicant for an Aged Parent (Residence) (Class BP) visa may be made at the same time and place as, and combined with, the application by that person.
- (4) Subclasses:

804 (Aged Parent)

**1124B. Partner (Residence) (Class BS)**

- (1) Form:
  - (a) If the applicant is the holder of a Subclass 445 (Dependent Child) visa: 1002
  - (b) In any other case: 47SP or 887.
- (2) Visa application charge:
  - (a) First instalment (payable at the time application is made):
    - (i) In the case of an applicant who is the holder of a Subclass 445 (Dependent Child) visa: Nil

- 
- (ii) In the case of an applicant who is the holder of a transitional (temporary) visa, granted on the basis that the holder satisfied the criteria for grant of an extended eligibility entry permit under the Migration (1989) Regulations: \$185
  - (iii) In the case of an applicant who:
    - (A) is not the holder of a substantive visa; and
    - (B) entered Australia before 19 December 1989; and
    - (C) at the time of entry, was engaged to be married to a person who was an Australian citizen or Australian permanent resident; and
    - (D) has subsequently married that person: \$660
  - (iv) In the case of an applicant who:
    - (A) is not the holder of a substantive visa; and
    - (B) entered Australia on or after 19 December 1989 as the holder of a prospective marriage (code number 300) entry permit granted under the Migration (1989) Regulations, or a Class 300 (prospective marriage) entry permit granted under the Migration (1993) Regulations; and
    - (C) ceased to hold a substantive visa after marrying the Australian citizen or Australian permanent resident whom the applicant entered Australia to marry: \$660
  - (v) In the case of an applicant who:
    - (A) is the holder of a Prospective Marriage (Temporary) (Class TO) visa; and

- (B) is married to the person who was specified as the applicant's intended spouse in the application for that visa; and
  - (C) seeks to remain in Australia permanently on the basis of that marriage: \$520
- (vi) In the case of an applicant who:
- (A) is not the holder of a substantive visa; and
  - (B) entered Australia as the holder of a Prospective Marriage (Temporary) (Class TO) visa; and
  - (C) ceased to hold that visa after marrying the Australian citizen, Australian permanent resident or eligible New Zealand citizen whom the applicant entered Australia to marry; and
  - (D) seeks to remain in Australia permanently on the basis of that marriage: \$660
- (vii) In any other case: \$1,595
- (b) Second instalment (payable before grant of visa): Nil.
- (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 a person who is an applicant for a Partner (Residence) (Class BS) visa may be made at the same time and place as, and combined with, the application by that person.

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(4) Subclasses:

801 (Spouse)

814 (Interdependency)

**[2216] Item 1125**

*omit*

**[2217] Item 1129, heading**

*substitute*

**1129. Partner (Migrant) (Class BC)**

**[2218] Paragraph 1129 (1) (b)**

*after*

47

*insert*

or 47SP

**[2219] Paragraph 1129 (3) (e)**

*omit*

Spouse

*insert*

Partner

**[2220] Subitem 1129 (4)***substitute*

(4) Subclasses:

100 (Spouse)

110 (Interdependency)

**[2221] Paragraph 1204 (3) (c)***omit*

Emergency (Temporary) (Class TD) visa.

*insert*

Emergency (Temporary) (Class TI) visa.

**[2222] Subitem 1211 (1)***substitute*

(1) Form: 918.

**[2223] Subparagraphs 1211 (2) (a) (ii) and (iii)***substitute*

(ii) In any other case: \$110

**[2224] Subitems 1211 (3) and (4)***substitute*

(3) Other:

- (a) Application by the dependent child of the holder of a visa of Subclass 309, 310, 820 or 826 must be made outside Australia.

- (b) Application by a person claiming to be a dependent child of a person who is an applicant for an Extended Eligibility (Temporary) (Class TK) visa may be made at the same time and place as, and combined with, the application by that person.

- (4) Subclasses:  
445 (Dependent Child)

**[2225] Item 1213A**

*omit*

**[2226] After item 1214B**

*insert*

**1214C. Partner (Temporary) (Class UK)**

- (1) Form: 47SP or 887.
- (2) Visa application charge: Nil.
- (3) Other:
- (a) Application must be made at the same time and place as an application for a Partner (Residence) (Class BS) visa.
- (b) Application must be made in Australia, but not in immigration clearance.
- (c) Applicant must be in Australia, but not in immigration clearance.
- (d) If the applicant:
- (i) is the holder of a Subclass 300 (Prospective Marriage) visa; and



(ii) seeks to remain in Australia permanently as the spouse of the person who was specified in the application for that Subclass 300 visa as the person the applicant intended to marry after entry to Australia;

the application may be made only if the application that resulted in the grant of that Subclass 300 visa was made on or after 1 November 1996.

(e) Application by a person claiming to be a member of the family unit of the holder or former holder of a prospective marriage (temporary) visa (as defined in clause 820.111 of Schedule 2) who is an applicant for a Partner (Temporary) visa may be made at the same time and place as, and combined with, the application by that person.

(f) Application by a person claiming to be a dependent child of a person who is an applicant for a Partner (Temporary) (Class UK) visa may be made at the same time and place as, and combined with, the application by that person.

(4) Subclasses:

820 (Spouse)

826 (Interdependency)

**[2227] Item 1220A, heading**

*substitute*

**1220A. Partner (Provisional) (Class UF)**

---

**[2228] Subitem 1220A (1)**

*after*

47

*insert*

or 47SP

**[2229] Paragraphs 1220A (3) (c) and (d)**

*omit*

Spouse

*insert*

Partner

**[2230] Subitem 1220A (4)**

*substitute*

(4) Subclasses:

309 (Spouse (Provisional))

310 (Interdependency (Provisional))

**[2231] Item 1301, note**

*substitute*

*Note 1* The Minister must grant a Bridging A (Class WA) visa in the circumstances set out in regulation 2.21A.

*Note 2* Regulation 2.07A sets out the circumstances in which an application for a substantive visa on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

**[2232] Items 1303 and 1305, at the foot**

*insert*

*Note* Regulation 2.07A sets out the circumstances in which an application for a substantive visa made on a form mentioned in this item is not a valid application for a Bridging A (Class WA), Bridging C (Class WC) or Bridging E (Class WE) visa.

**[2233] Additional amendments of Schedule 1 — forms**

<i>Subitem</i>	<i>after</i>	<i>insert</i>
1104 (1)	47,	47BU,
1104A (1)	Form:	47BU or
1107 (1)	Form:	47SV or
1115 (1)	Form:	47SP, 47SV or
1116 (1)	47	or 47SV
1117 (1)	47	or 47SV
1118 (1)	47	or 47SV
1301 (1)	Form:	47SP, 47CH, 47PA, 47OF, 47SK, 47ES, 47BU, 47SV,
1303 (1)	Form:	47SP, 47CH, 47PA, 47OF, 47SK, 47ES, 47BU, 47SV,
1305 (1)	Form:	47SP, 47CH, 47PA, 47OF, 47SK, 47ES, 47BU, 47SV,

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## Part 3 Amendments of Schedule 2

### [2301] Paragraphs 010.211 (5) (a) and (6) (a)

*omit*

visa or an Interdependency (Migrant) (Class BI) visa;

*insert*

visa, an Interdependency (Migrant) (Class BI) visa or a Partner (Migrant) (Class BC) visa;

### [2302] Paragraphs 020.212 (4) (a) and (5) (a)

*omit*

visa or an Interdependency (Migrant) (Class BI) visa;

*insert*

visa, an Interdependency (Migrant) (Class BI) visa or a Partner (Migrant) (Class BC) visa;

### [2303] Paragraph 050.212 (9) (a)

*omit*

visa or an Interdependency (Migrant) (Class BI) visa;

*insert*

visa, an Interdependency (Migrant) (Class BI) visa or a Partner (Migrant) (Class BC) visa;

**[2304] Clause 100.311**

*omit*

Spouse

*insert*

Partner

**[2305] Division 101.1, note**

*substitute*

*Note eligible New Zealand citizen, dependent child and step-child* are defined in regulation 1.03, *adoption* is defined in regulation 1.04, and *spouse* is defined in regulation 1.15A. There are no interpretation provisions specific to this Part.

**[2306] Clause 101.211**

*substitute*

- 101.211 (1) The applicant:
- (a) is a dependent child of an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
  - (b) subject to subclause (2), has not turned 25; and
  - (c) either:
    - (i) is the natural child, or step-child, of the Australian citizen, Australian permanent resident or eligible New Zealand citizen mentioned in paragraph (a); or
    - (ii) was adopted overseas by a person who, at the time of adoption, was not an Australian citizen, Australian permanent resident or eligible New Zealand citizen, but later became an Australian citizen, Australian permanent resident or eligible New Zealand citizen.

(2) Paragraph (1) (b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

**[2307] After clause 101.212**

*insert*

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

(2) Paragraph (1) (c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

**[2308] Clause 101.221**

*substitute*

- 101.221 (1) In the case of an applicant who had not turned 18 at the time of application, the applicant:
- (a) continues to satisfy the criterion in clause 101.211; or
  - (b) does not continue to satisfy that criterion only because the applicant has turned 18.

- (2) In the case of an applicant who had turned 18 at the time of application:
- (a) the applicant:
    - (i) continues to satisfy the criterion in clause 101.211; or
    - (ii) does not continue to satisfy that criterion only because the applicant has turned 25; and
  - (b) the applicant continues to satisfy the criterion in clause 101.213.

**[2309] Part 104**

*omit*

**[2310] After Part 110**

*insert*

**Subclass 114      Aged Dependent  
Relative**

**114.1 Interpretation**

*Note* *aged dependent relative*, *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, and *spouse* is defined in regulation 1.15A. There are no interpretation provisions specific to this Part.

**114.2 Primary criteria**

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

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

- 114.211 The applicant is an aged dependent relative of a person who is:
- (a) an Australian citizen; or
  - (b) an Australian permanent resident; or
  - (c) an eligible New Zealand citizen.
- 114.212 (1) The applicant is sponsored:
- (a) if the Australian relative has turned 18 and is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen — by the Australian relative; or
  - (b) by the spouse of the Australian relative, if the spouse:
    - (i) cohabits with the Australian relative; and
    - (ii) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
    - (iii) has turned 18.
- (2) In this clause, *the Australian relative* means the person mentioned in clause 114.211 of whom the applicant is an aged dependent relative.

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

- 114.221 The applicant continues to satisfy the criterion in clause 114.211.
- 114.222 The sponsorship referred to in clause 114.212 has been approved by the Minister and is still in force.
- 114.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 114.224 If the applicant has previously been in Australia, the applicant satisfies special return criteria 5001 and 5002.
- 114.225 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.



- 114.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 114 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
  - (b) if the member has previously been in Australia, satisfies special return criteria 5001 and 5002.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 114 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 114.227 If:
- (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 a Subclass 114 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.

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### **114.3 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.

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

114.311 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 114.21.

114.312 The sponsorship referred to in clause 114.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

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

114.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 114 visa.

114.322 The sponsorship referred to in clause 114.312 has been approved by the Minister and is still in force.

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

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

114.325 Either:

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

114.326 If the applicant is a dependent child, 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.

#### **114.4 Circumstances applicable to grant**

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

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

#### **114.5 When visa is in effect**

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

#### **114.6 Conditions**

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

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

#### **114.7 Way of giving evidence**

114.711 Visa label affixed to a valid passport.

### **Subclass 115 Remaining Relative**

#### **115.1 Interpretation**

*Note* *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, *remaining relative* is defined in regulation 1.15, and *spouse* is defined in regulation 1.15A. There are no interpretation provisions specific to this Part.

## 115.2 Primary criteria

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

### 115.21 Criteria to be satisfied at time of application

115.211 (1) The applicant is a remaining relative of an Australian relative of the applicant.

(2) In this clause, *Australian relative*, in relation to an applicant, means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

115.212 The applicant is sponsored:

- (a) by the Australian relative mentioned in clause 115.211 if that relative has turned 18; or
- (b) by the spouse of the Australian relative if:
  - (i) the spouse cohabits with the relative; and
  - (ii) the spouse is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (iii) the spouse has turned 18.

### 115.22 Criteria to be satisfied at time of decision

115.221 The applicant continues to satisfy the criterion in clause 115.211.

115.222 The sponsorship referred to in clause 115.212 has been approved by the Minister and is still in force.

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

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

- 115.225 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
- 115.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 115 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
  - (b) if the member has previously been in Australia, satisfies special return criteria 5001 and 5002.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 115 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 115.227 If:
- (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 a Subclass 115 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.

### **115.3 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.

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

115.311 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 115.21.

115.312 The sponsorship referred to in clause 115.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

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

115.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 115 visa.

115.322 The sponsorship referred to in clause 115.312 has been approved by the Minister and is still in force.

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

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

115.325 Either:

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

115.326 If the applicant is a dependent child, 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.

#### **115.4 Circumstances applicable to grant**

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

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

#### **115.5 When visa is in effect**

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

#### **115.6 Conditions**

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

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

#### **115.7 Way of giving evidence**

115.711 Visa label affixed to a valid passport.

### **Subclass 116 Carer**

#### **116.1 Interpretation**

*Note* *dependent child* and *eligible New Zealand citizen* are defined in regulation 1.03, *carer* is defined in regulation 1.15AA, and *spouse* is defined in regulation 1.15A. There are no interpretation provisions specific to this Part.

## 116.2 Primary criteria

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

### 116.21 Criteria to be satisfied at time of application

116.211 (1) The applicant claims to be a carer of an Australian relative of the applicant.

(2) In this clause, *Australian relative*, in relation to an applicant, means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

116.212 The applicant is sponsored:

- (a) by the Australian relative mentioned in clause 116.211 if that relative has turned 18; or
- (b) by the spouse of the Australian relative if:
  - (i) the spouse cohabits with the relative; and
  - (ii) the spouse is an Australian citizen or an Australian permanent resident or an eligible New Zealand citizen; and
  - (iii) the spouse has turned 18.

### 116.22 Criteria to be satisfied at time of decision

116.221 The applicant is a carer of the Australian relative mentioned in clause 116.211.

116.222 The sponsorship referred to in clause 116.212 has been approved by the Minister and is still in force.

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

116.224 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

116.225 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.



- 116.226 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 116 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010; and
  - (b) if the member has previously been in Australia, satisfies special return criterion 5001.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 116 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 116.227 If:
- (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 a Subclass 116 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.

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### **116.3 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.

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

116.311 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 116.21.

116.312 The sponsorship referred to in clause 116.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

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

116.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 116 visa.

116.322 The sponsorship referred to in clause 116.312 has been approved by the Minister and is still in force.

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

116.324 If the applicant has previously been in Australia, the applicant satisfies special return criterion 5001.

116.325 Either:

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

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

## **116.4 Circumstances applicable to grant**

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

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

## **116.5 When visa is in effect**

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

## **116.6 Conditions**

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

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

## **116.7 Way of giving evidence**

116.711 Visa label affixed to a valid passport.

# **Subclass 117 Orphan Relative**

## **117.1 Interpretation**

*Note* *dependent child* and *eligible New Zealand citizen* are defined in regulation 1.03, *orphan relative* is defined in regulation 1.14, and *spouse* is defined in regulation 1.15A. There are no interpretation provisions specific to this Part.

## 117.2 Primary criteria

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

### 117.21 Criteria to be satisfied at time of application

117.211 (1) The applicant is an orphan relative of an Australian relative of the applicant.

(2) In this clause, *Australian relative*, in relation to an applicant, means a relative of the applicant who is an Australian citizen, an Australian permanent resident or an eligible New Zealand citizen.

117.212 The applicant is sponsored:

- (a) by the Australian relative mentioned in clause 117.211 if that relative has turned 18; or
- (b) by the spouse of the Australian relative if:
  - (i) the spouse cohabits with the relative; and
  - (ii) the spouse is an Australian citizen or an Australian permanent resident or an eligible New Zealand citizen; and
  - (iii) the spouse has turned 18.

### 117.22 Criteria to be satisfied at time of decision

117.221 The applicant:

- (a) continues to satisfy the criterion in clause 117.211; or
- (b) does not continue to satisfy that criterion only because the applicant has turned 18.

117.222 The sponsorship referred to in clause 117.212 has been approved by the Minister and is still in force.

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

- 117.224 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
- 117.225 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 117 visa is a person who satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 117 visa is a person who:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 117.226 If:
- (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 a Subclass 117 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.
- 117.227 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.

### **117.3 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.

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

117.311 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 117.21.

117.312 The sponsorship referred to in clause 117.212 of the person who satisfies the primary criteria includes sponsorship of the applicant.

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

117.321 The applicant continues to be a member of the family unit of a person who is the holder of a Subclass 117 visa.

117.322 The sponsorship referred to in clause 117.312 has been approved by the Minister and is still in force.

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

117.324 Either:

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

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

**117.4 Circumstances applicable to grant**

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

**117.5 When visa is in effect**

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

**117.6 Conditions**

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

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

**117.7 Way of giving evidence**

117.711 Visa label affixed to a valid passport.

**[2311] After clause 303.324**

*insert*

303.325 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2312] Clause 309.511**

*substitute*

- 309.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until the end of the day on which:
- (a) the holder is notified that the holder's application for a Spouse (Migrant) (Class BC) visa or a Partner (Migrant) (Class BC) visa has been decided; or
  - (b) that application is withdrawn.

**[2313] Clause 310.511**

*substitute*

- 310.511 Temporary visa permitting the holder to travel to, enter and remain in Australia until the end of the day on which:
- (a) the holder is notified that the holder's application for an Interdependency (Migrant) (Class BI) visa or a Partner (Migrant) (Class BC) visa has been decided; or
  - (b) that application is withdrawn.

**[2314] After clause 411.326**

*insert*

- 411.327 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.



**[2315] After clause 415.326**

*insert*

415.327 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2316] After clause 416.325**

*insert*

416.326 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2317] After clause 418.326**

*insert*

418.327 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2318] After clause 419.325**

*insert*

419.326 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

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**[2319] After clause 420.326**

*insert*

420.327 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2320] After clause 421.326**

*insert*

421.327 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2321] After clause 422.327**

*insert*

422.328 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2322] After clause 423.326**

*insert*

423.327 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2323] After clause 424.327**

*insert*

424.328 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2324] After clause 425.324**

*insert*

425.325 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2325] After clause 426.326**

*insert*

426.327 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2326] After clause 427.325**

*insert*

427.326 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

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**[2327] After clause 428.325**

*insert*

428.326 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2328] After clause 430.324**

*insert*

430.325 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2329] After clause 432.325**

*insert*

432.326 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2330] After clause 442.325**

*insert*

442.326 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2331] Subparagraph 445.211 (b) (iii)**

*substitute*

- (iii) Spouse (Provisional) (Class UF);
- (iv) Partner (Provisional) (Class UF);
- (v) Partner (Temporary) (Class UK); and

**[2332] Clause 445.511**

*omit*

or Spouse (Provisional) (Class UF) visa

*insert*

, Spouse (Provisional) (Class UF) visa, Partner (Provisional) (Class UF) visa or Partner (Temporary) (Class UK) visa

**[2333] After clause 448.225**

*insert*

448.226 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2334] After clause 448.323**

*insert*

448.324 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

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**[2335] After clause 449.322**

*insert*

449.323 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2336] Subclause 560.320 (1)**

*omit*

560.328.

*insert*

560.329.

**[2337] After clause 560.328**

*insert*

560.329 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2338] Subclause 563.220 (1)**

*omit*

563.228.

*insert*

563.229.

**[2339] After clause 563.228**

*insert*

563.229 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2340] After clause 675.222**

*insert*

675.223 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2341] After clause 685.222**

*insert*

685.223 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2342] After paragraph 773.213 (2) (a)**

*insert*

(ab) Partner (Migrant) (Class BC);

---

**[2343] Paragraph 773.213 (2) (zi)**

*substitute*

- (zi) Skilled – Australian-sponsored (Migrant) (Class BQ);
- (zj) Other Family (Migrant) (Class BO);
- (zk) Aged Parent (Residence) (Class BP);
- (zl) Partner (Residence) (Class BS);
- (zm) Child (Residence) (Class BT);
- (zn) Other Family (Residence) (Class BU).

**[2344] After paragraph 773.213 (3) (ja)**

*insert*

- (jb) Partner (Provisional) (Class UF);

**[2345] After clause 773.225**

*insert*

773.226 If the applicant has not turned 18, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

**[2346] Paragraph 801.221 (7) (c)**

*omit*

form 887

*insert*

form 47SP or 887



**[2347] Paragraph 801.311 (a)**

*omit*

General (Residence) (Class AS) visa;

*insert*

Partner (Residence) (Class BS) visa;

**[2348] Clause 802.212**

*substitute*

802.212 (1) The applicant:

- (a) is a dependent child of a person who is an Australian citizen, Australian permanent resident or eligible New Zealand citizen; and
- (b) subject to subclause (2), has not turned 25; and
- (c) is nominated for the grant of the visa by the Australian citizen, Australian permanent resident or eligible New Zealand citizen mentioned in paragraph (a).

(2) Paragraph (1) (b) does not apply to an applicant who, at the time of making the application, was a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

**[2349] After clause 802.213**

*insert*

802.214 (1) If the applicant has turned 18:

- (a) the applicant:
  - (i) is not engaged to be married; and
  - (ii) does not have a spouse; and
  - (iii) has never had a spouse; and
- (b) the applicant is not engaged in full-time work; and

- (c) subject to subclause (2), the applicant has, since turning 18, or within 6 months or a reasonable time after completing the equivalent of year 12 in the Australian school system, been undertaking a full-time course of study at an educational institution leading to the award of a professional, trade or vocational qualification.
- (2) Paragraph (1) (c) does not apply to an applicant who, at the time of making the application, is a dependent child within the meaning of subparagraph (b) (ii) of the definition of *dependent child*.

**[2350] Clause 802.221**

*substitute*

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

**[2351] Part 806**

*omit*

**[2352] Clause 814.311**

*omit*

General (Residence) (Class AS) visa,

*insert*

Partner (Residence) (Class BS) visa,

**[2353] After Part 834**

*insert*

**Subclass 835 Remaining Relative****835.1 Interpretation**

*Note dependent child, eligible New Zealand citizen and settled* are defined in regulation 1.03, and *remaining relative* is defined in regulation 1.15. There are no interpretation provisions specific to this Part.

**835.2 Primary criteria**

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

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

835.211 The applicant:

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

- 835.212 The applicant is a remaining relative of a person who:
- (a) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (b) is usually resident in Australia; and
  - (c) has nominated the applicant for the grant of the visa.

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

- 835.221 The applicant continues to satisfy the criterion in clause 835.212.
- 835.222 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
- 835.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 835.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 835 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 835 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.
- 835.225 The Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant or a dependent child of the applicant.

### **835.3 Secondary criteria**

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

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

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

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

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

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

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

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

835.323 Either:

- (a) an assurance of support in relation to the relevant person who satisfies the primary criteria, that includes the applicant, has been given and has been accepted by the Minister; or
- (b) an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.

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

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### **835.4 Circumstances applicable to grant**

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

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

### **835.5 When visa is in effect**

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

### **835.6 Conditions: Nil.**

### **835.7 Way of giving evidence**

835.711 Visa label affixed to a passport.

## **Subclass 836 Carer**

### **836.1 Interpretation**

*Note dependent child, eligible New Zealand citizen and settled* are defined in regulation 1.03, and *carer* is defined in regulation 1.15AA. There are no interpretation provisions specific to this Part.

### **836.2 Primary criteria**

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

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

836.211 The applicant:

(a) satisfies Schedule 3 criterion 3002; and

- (b) either:
- (i) is the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
  - (ii) is not the holder of a substantive visa, and immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa.

- 836.212 The applicant claims to be a carer of a person who:
- (a) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
  - (b) is usually resident in Australia; and
  - (c) has nominated the applicant for the grant of the visa.

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

- 836.221 The applicant is a carer of a person referred to in clause 836.212.
- 836.222 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
- 836.223 The applicant satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- 836.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 836 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.
- (2) Each member of the family unit of the applicant who is not an applicant for a Subclass 836 visa:
- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
  - (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

836.225 The Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant or a dependent child of the applicant.

### **836.3 Secondary criteria**

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

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

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

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

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

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

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

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

836.323 Either:

- (a) an assurance of support in relation to the relevant person who satisfies the primary criteria, that includes the applicant, has been given and has been accepted by the Minister; or



- (b) an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.

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

#### **836.4 Circumstances applicable to grant**

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

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

#### **836.5 When visa is in effect**

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

#### **836.6 Conditions: Nil.**

#### **836.7 Way of giving evidence**

836.711 Visa label affixed to a passport.

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## Subclass 837 Orphan Relative

### 837.1 Interpretation

*Note* *dependent child*, *eligible New Zealand citizen* and *settled* are defined in regulation 1.03, and *orphan relative* is defined in regulation 1.14. There are no interpretation provisions specific to this Part.

### 837.2 Primary criteria

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

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

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

- (a) has not been refused a visa or had a visa cancelled under section 501 of the Act; and
- (b) has become an orphan relative of an Australian citizen, of an Australian permanent resident or of an eligible New Zealand citizen since last applying for an entry permit or substantive visa.

837.212 The applicant:

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

837.213 The applicant is an orphan relative of a person who:

- (a) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and

- (b) is usually resident in Australia; and
- (c) has nominated the applicant for the grant of the visa.

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

837.221 The applicant:

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

837.222 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.

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

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

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 837 visa:

- (a) satisfies public interest criteria 4001, 4002, 4003 and 4004; and
- (b) satisfies public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

837.225 The Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant or a dependent child of the applicant.

### **837.3 Secondary criteria**

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

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

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

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

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

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

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

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

837.323 Either:

- (a) an assurance of support in relation to the relevant person who satisfies the primary criteria, that includes the applicant, has been given and has been accepted by the Minister; or
- (b) an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.

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

### **837.4 Circumstances applicable to grant**

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

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

### **837.5 When visa is in effect**

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

### **837.6 Conditions: Nil.**

### **837.7 Way of giving evidence**

837.711 Visa label affixed to a passport.

## **Subclass 838 Aged Dependent Relative**

### **838.1 Interpretation**

*Note* *aged dependent relative* and *eligible New Zealand citizen* are defined in regulation 1.03. There are no interpretation provisions specific to this Part.

### **838.2 Primary criteria**

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

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

838.211 The applicant:

- (a) satisfies Schedule 3 criterion 3002; and

- (b) either:
- (i) is the holder of a substantive visa (other than a Subclass 771 (Transit) visa); or
  - (ii) is not the holder of a substantive visa, and immediately before ceasing to hold a substantive visa, was not the holder of a Subclass 771 (Transit) visa.

838.212 The applicant is an aged dependent relative of a person who:

- (a) is a settled Australian citizen, a settled Australian permanent resident or a settled eligible New Zealand citizen; and
- (b) is usually resident in Australia; and
- (c) has nominated the applicant for the grant of the visa.

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

838.221 The applicant continues to satisfy the criterion in clause 838.212.

838.222 An assurance of support in relation to the applicant has been given, and has been accepted by the Minister.

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

838.224 (1) Each member of the family unit of the applicant who is an applicant for a Subclass 838 visa satisfies public interest criteria 4001, 4002, 4003, 4004, 4005, 4009 and 4010.

(2) Each member of the family unit of the applicant who is not an applicant for a Subclass 838 visa satisfies:

- (a) public interest criteria 4001, 4002, 4003 and 4004; and

- (b) public interest criterion 4005, unless the Minister is satisfied that it would be unreasonable to require the person to undergo assessment in relation to that criterion.

838.225 The Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant or a dependent child of the applicant.

### **838.3 Secondary criteria**

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

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

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

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

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

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

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

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

- 838.323 Either:
- (a) an assurance of support in relation to the relevant person who satisfies the primary criteria, that includes the applicant, has been given and has been accepted by the Minister; or
  - (b) an assurance of support in relation to the applicant has been given, and has been accepted by the Minister.
- 838.324 If the applicant is a dependent child, the Minister is satisfied that the grant of the visa to the applicant would not prejudice the rights and interests of any person who has custody or guardianship of, or access to, the applicant.

### **838.4 Circumstances applicable to grant**

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

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

### **838.5 When visa is in effect**

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

### **838.6 Conditions: Nil.**

### **838.7 Way of giving evidence**

- 838.711 Visa label affixed to a passport.



## **Part 4 Amendment of Schedule 4**

### **[2401] Paragraph 4014 (4) (b)**

*omit*

Bridging D (Class WB)

*insert*

Bridging D (Class WD)

## **Part 5 Amendment of Schedule 6A**

### **[2501] Part 6, item 6A61**

*substitute*

- |      |   |    |
|------|---|----|
| 6A61 | The applicant has met the requirements for award of a doctorate by an Australian tertiary educational institution after a period of at least 12 months full-time study in Australia                     | 10 |
| 6A62 | The applicant has met the requirements for award of a degree, diploma or trade qualification by an Australian educational institution after a period of at least 12 months full-time study in Australia | 5  |

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## Notes

1. These Regulations amend (in Schedule 1) Statutory Rules 1999 No. 220.

These Regulations also amend (in Schedule 2) Statutory Rules 1994 No. 268, as amended by 1994 Nos. 280, 322, 376 and 452; 1995 Nos. 3, 38, 117, 134, 268, 302 and 411; 1996 Nos. 12, 75 (regulations 7 and 8 were disallowed by the Senate on 11 September 1996), 76, 108, 121, 135, 198, 211 (regulations 4, 10, 11, 13.3, 14-37, 47-49, 51, 53-55, 74, 77.16, 77.19, 78, 85, 119 and 114 were disallowed by the Senate on 7 November 1996) and 276; 1997 Nos. 17, 64, 91, 92, 109, 137, 184, 185, 216, 263, 279, 288, 301 and 354; 1998 Nos. 36, 37, 104 (regulation 15 was disallowed by the Senate on 2 July 1998), 139, 210, 214, 284, 285 (disallowed by the Senate on 31 March 1999), 304, 305, 306 and 322; 1999 Nos. 8, 58, 64, 68 (as amended by 1999 Nos. 81 and 132), 76 (as amended by 1999 Nos. 81 and 132), 81 (as amended by 1999 No. 132), 82, 132, 155, 198~~and 220~~

2. Made by the Governor-General on  1999, and notified in  
the *Commonwealth of Australia Gazette* on  1999.

, and 243  
20 October  
27 October